(1)

Government of Madras.

JUDICIAL DEPARTMENT.

LY CONFIDENTIAL. No 193 A

}1908. *Enclosures*

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(49)

G.O., No. 1212, 2nd September 1908.

M.R.Ry. G. Subramania Aiyar Avargal.

ion of proceedings under section 108 of the Code of Criminal Procedure against ...
e *Swadesamitran.*

செப்பனிடுபவர் பெயர் : V. [illegible]

செப்பனிடுவதற்காக எடுக்கப்-
கொள்ளப்பட்ட நாள் : 3/2005

செப்பனிட்டு முடித்த நாள் : 27/4/2005

23/6/05	4/7/05	
சரிபார்க்கும் முதல் மு.பா.எ. கையொப்பம்	சரிபார்க்கும் இரண்டாம் மு.பா.எ. கையொப்பம்	ஆராய்ச்சி உதவியாளர் கையொப்பம்

2/1212

Government of Madras.

JUDICIAL DEPARTMENT.

STRICTLY CONFIDENTIAL.

Recd.	} *1908.*	*Enclosures*	
Regd.		*Spare copies*	

G.O., No. 1212, 2nd September 1908.

M.R.Ry. G. Subramania Aiyar Avargal.

Institution of proceedings under section 108 of the Code of Criminal Procedure against —, Editor of the *Swadesamitran.*

STRICTLY CONFIDENTIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following papers :—

I

Letter—from H. F. WILKIESON, Esq., Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—the 24th June 1908.
No.—563 (*b*)/I.D.

I have the honour to forward the attached English translation of a large number of extracts from the *Swadesamitran*, which have been declared to be objectionable by the Advocate-General, who is of opinion that the editor can be made liable under sections 124-A and 153-A of the Indian Penal Code.

The editor, proprietor, printer and publisher of this Tamil journal is G. Subramania Aiyar, B.A.

As the order of Government authorising the institution of proceedings against the editor is a condition precedent to any charge under sections 124-A and 153-A of the Indian Penal Code, I have the honour to request that the Government may be pleased to issue an order under section 196 of the Code of Criminal Procedure for the prosecution of G. Subramania Aiyar, B.A.

II

Official Memorandum No. 89-1, Judicial, dated 30th June 1908.

With reference to his letter 563 (*b*)/I.D. of the 24th June, the Commissioner of Police is requested to scrutinize without delay the issues of the *Swadesamitran* published since the 11th May 1908, and to forward such portions of them as appear to constitute offences under sections 123-A and 154-A of the Indian Penal Code to the Advocate-General for favour of opinion whether those responsible for their publication could be prosecuted under those sections with a reasonable chance of success.

2. The Advocate-General has been requested to forward his opinion direct to Government.

J. N. ATKINSON,
Ag. Chief Secretary.

To the Commissioner of Police
(through the Inspector-General of Police).

III

Official Memorandum No. 90-1, Judicial, dated 30th June 1908.

The Honourable the Advocate-General is informed that the Commissioner of Police has been directed to forward to him extracts from the *Swadesamitran*,

published since the 11th May 1908 for favour of opinion as to whether a prosecution could be instituted under sections 124-A and 153-A of the Indian Penal Code, with a reasonable chance of success against those responsible for their publication.

2. The Honourable the Advocate-General is requested to forward his opinion direct to Government at a very early date.

J. N. ATKINSON,
Ag. Chief Secretary.

To the Honourable the Advocate-General.

IV

Letter—from the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.
To—the Chief Secretary to Government.
Dated—25th July 1908.

[Judicial Memoranda Nos. 89-1 and 90-1, dated 30th June 1908.]

The extracts from the *Swadesamitran* and from *India*, referred to in the above memoranda, were furnished to me at Madras on the 16th instant, with a covering letter of the 15th instant from the Commissioner of Police. As I have been engaged in the Peranai appeal and as there were thirteen issues of the *Swadesamitran* and eight issues of *India* to be looked into, I was not able to go through the papers till last night.

I will make my remarks on the various issues of the *Swadesamitran seriatim* :—

(1) 15*th May* 1908. The article on "The conduct of our ancestors" is not open to objection. It is a strong condemnation of the bomb outrages, and though there is a sentence about "English beasts" thirsting for the blood of Indians and seeking to implicate the educated classes and respectable men in connection with the outrages, the object of the writer is not to create any class-hatred but merely to answer the charges and aspersions made by certain Anglo-Indians against the educated and respectable classes.

(2) 16*th May* 1908—"*Who is responsible?*"—In this article the writer complains that the Anglo-Indian papers do not take the trouble to inquire into the causes which have produced the extremists and points out that repressive measures have increased in the country since the time of Lord Curzon, that public opinion has been slighted, and that in consequence a feeling of resentment has been created in the minds of the people. The writer states that while the Indians agree with Englishmen in considering that crime must be put down they differ from them in thinking that the causes of unrest must be removed by conciliatory measures and not by a repressive policy. I do not think that this article is objectionable.

(3) 20*th May* 1908—"*One meal in two days*".—In this article the writer suggests that the British Government is conducted on the principle of sweeping away everything from the country, with a regard for the gain of Englishmen and with no regard for the future welfare of the country. He refers to the draining of the wealth of the country by Europeans. He states also that Europeans are not content with robbing the country but are given to beating and abusing the Indians and tendering evil advice to Government. This article is objectionable and will fall under section 124-A.

(4) 21*st May* 1908—"*The flogging of agitators by sweepers*".—The article appears to be a reply to a suggestion in the *Englishman* of Calcutta that Indian agitators should be ordered to be flogged by sweepers. It points out that articles of this kind are obnoxious to the law on account of their tendency to produce enmity between Englishmen and Indians. The writer asks why no proceedings are taken against papers like the *Englishman* and regrets that even-handed justice has left the country. If there was an article in the *Englishman* of the kind alleged, it might have given provocation to the writer of this article. The reference to the slaughter of Englishmen in the mutiny appears to be made by way of retort to the *Englishman* rather than with any object of exciting disaffection or class-hatred.

(5) 26*th May* 1908—"*Future troubles and British rule*".—In this article it is stated that famines in the country are due to the unjust rule of Englishmen, that famines were unknown before the British rule, and that having in their greed imposed heavy taxes, incurred extravagant expenditure, killed industries and imported famine and plague. Englishmen labour to relieve the country from suffering during the famines which they have themselves imported. The article seems to be a reply to some article in the *Times* on "the White man's burden." This article will fall under section 124-A.

(6) 3*rd June* 1908—"*American sympathy for India*".—In this article it is stated that the policy of England in India is that of killing the goose that lays the golden eggs and that an impoverished India will do no good to any body.

"*Who is the bad Magistrate?*"—In this article the writer suggests that the riots at Tinnevelly and the shooting of certain inhabitants there, the Cocanada riots, the disturbance among the Rajahmundry students and the death of a woman at Salem mauled by a cheetah kept by the Collector were due to the bad officials concerned, and regrets that Magistrates who are wanting in ability and good qualities and cause troubles, riots and loss of life are rewarded by the Government instead of being punished and that the Government is being conducted without any regard to the welfare of the people and the true sources of strength of the State and with the view of supporting members of the ruling race at any cost. It states that the belief once entertained by the people that Englishmen were heaven-born and immaculate, has now disappeared and that foreigners are not capable of governing India. It winds up with the query whether Englishmen will admit that they are not fit to govern England and that the Russians and the Japanese alone are capable of ruling England.

"*Drunkenness no crime.*"—This paragraph refers to the acquittal on the ground of drunkenness of a white soldier who had killed a cartman. It dwells upon the injustice of the decision and asks how Indians can be expected to be loyal when such injustice is tolerated.

5*th June* 1908—"*The virulence of Anglo-Indian papers.*"—This a reply to an article in the *Madras Times* which contained a suggestion that King Edward's visit to the Czar was for the purpose of negotiating a sale of India to him. The insinuation in the *Times* that India will suffer by the bargain is met with the statement that England will suffer equally by the transaction.

"*The suggestion of the 'Madras Times.'*"—In the same issue is another article under the above heading. The writer pursues the same topic and states that for various reasons Indians are not afraid of Russian rule. Russia also being an agricultural country, there will be no exports of raw products and no drain of the material resources of the country; nor need the people have any fear of losing liberty of speech or liberty of the press. The writer refers to an article in the *Modern Review* on "If Russia should rule India" and contents himself with saying that the superiority of Russian to English rule is pointed out in that article.

I do not know whether there was any such silly suggestion in the *Madras Times*, and I am unable to stay how far the article was provoked by the effusion of the *Times*. Though the offensive utterances of some of the Anglo-Indian papers may provoke a retaliation and afford some excuse, I do not think that the article in question is justifiable.

30*th May* 1908—"*America and India.*"—After referring to the anxious thought bestowed by President Roosevelt upon the preservation of the material resources of the United States, the writer says that since the advent of the British, the resources of the country are being destroyed and other evils have arisen and that no Viceroy or British Minister betrays any solicitude for the welfare of the country like President Roosevelt. The only anxiety shown by British statesmen is how to carry away the wealth of India in as short a time as possible during their tenure of the country and not how to utilise the sources of national wealth for the benefit of the country.

"*Assault for omitting to use the word 'Sir'*".—The writer states that the complaint of ill-treatment of Indians by Europeans is attributed by Anglo-Indian papers to the race-hatred of Indian newspapers; but he contends that it is based

upon fact and in support of this statement dwells on a case of ill-treatment in Ceylon of an Indian booking clerk by a Military officer for not using the word 'Sir'.

6th June 1908—"*Ignorance of Englishmen.*"—The writer states that the British rule in India is not characterised by justice or kindness, and that justice and kindness without a recognition of equality are not sufficient to make the Government popular.

2nd June 1908—"*The meekness of Indians and the severity of Englishmen.*"—This article is a reply to an article of Sir Charles Elliott in an English magazine which complained that there were numerous cases of assaults of Englishmen by Indians which went without punishment and recommended the infliction of severe punishments and the adoption of repressive measures. The writer points out that the statements of Sir Charles Elliott are unfounded. The writer says that however much the Indians may be downtrodden, they will find some providential way out of their troubles and that it cannot be assumed that Indians will continue to be helpless. He asks whether 30 crores of people will continue to bear their sufferings and be content with slavery.

The writer puts his faith in providence and destiny and does not make any covert incitement to insurrection.

16th June 1908—"*Why should the British statesmen speak thus?*"—In this article the writer refers to some remarks of Lord Macaulay and to the Queen's Proclamation and states that since 1857 the Government of the country, as pointed out by Lord Curzon, has been conducted with a sole eye to the interests of Great Britain. The writer thinks that the influence of the democracy is one of the causes which accounts for this state of things.

18th June 1908—"*The executive and the judiciary.*"—The writer dwells upon the growing tendency to increase the powers of the executive and curtail the jurisdiction of the courts, and points out that the necessary result of this tendency is to curtail the liberty of the subject and that the intention of the present administration is to make the people the slaves of the police and the magistrates.

25th June 1908—"*Can you pass close by.*"—This paragraph is with reference to an incident in Allahabad. A native peon is said to have been arrested for passing close to a young European lady. The writer contrasts this with the cases of Europeans who ravish Indian women and are left off scotfree and reflects upon the alleged impartiality of officials in the country.

I think the articles of the 20th May on "One meal in two days," of the 26th May on "Future troubles and British rule," of the 5th June on "The suggestion of the *Madras Times*," of the 30th May on "America and India," and of the 6th June on "The ignorance of Englishmen" will fall under section 124-A. The articles on "Bad magistrates" and "Can you pass close by" may be used by way of evidence.

I have read the issues of *India* sent to me I think that the articles of the 2nd May on "Stories from the Mahabharata," of the 23rd May on "The crusade against the newspapers by the Bombay Government," and on "One of several robberies," of the 6th June on "The Economic *Swadesi*" and of the 27th June on "Why lose time?" will fall under section 124-A and the article of the 2nd May on "Do you also seek the way to ruin?" will fall under 153-A.

The other articles may be used by way of evidence.

The Commissioner of Police desires that the original papers sent herewith may be returned to him with the orders of Government.

V

G.O., No. 1102, Judicial, dated 11th August 1908.

Under the provisions of section 196 of the Code of Criminal Procedure the Madras Government authorize the institution of criminal proceedings against G. Subramania Aiyar, as editor, proprietor, printer and publisher of the Tamil

newspaper called the *Swadesamitran* under sections 124-A, 153-A and 505 of the Indian Penal Code in respect of the following articles published in the said *Swadesamitran* newspaper on the dates noted against each article, namely :—

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
13th January 1908. ..	The Indians in South Africa. (Paragraph 15, pages 36 and 37, of Newspaper Report No. 3, dated 18th January 1908.)	Sufferings of our brethren in Transvaal.
23rd " " ..	Indian coolies beaten to death by the whites (Paragraph 13, page 46, of N.P.R. No. 4, dated 25th January 1908.)	Indian coolies beaten to death by the whites.
28th " " ..	The Police and the Judiciary. (Paragraph 5, page 50, of N.P.R. No. 5, dated 1st February 1908.)	The Police authorities and the Judges.
27th " " ..	The Government and the Press in India (Paragraph 7, page 50, of N.P.R. No. 5, dated 1st February 1908.)	The Government and the Newspapers.
31st " " ..	(Paragraph 16, page 51, of N.P.R. No. 5, dated 1st February 1908).	Opening of the Parliament.
30th " " ..	The officials and the people. (Paragraph 17, page 55, of N.P.R. No. 5, dated 1st February 1908.)	The Decentralization Commission.
1st February " ..	Moulvi Leakat Hussain. (Paragraph 4, page 59, of N.P.R. No. 6, dated 8th February 1908.)	Sri Leakat Hussain.
7th " " ..	The Government Service. (Paragraph 23, pages 73 and 74, of N.P.R. No. 7, dated 15th February 1908).	Patriotism catechism. (1) Are all foreigners in Government service traitors to our country. (2) Are all the Natives in Government service traitors to their mother land. (3) Can patriots take up Government service. (4) Can the worshippers of the country enter Government service.
7th " " ..	Famine in Northern India. (Paragraph 28, page 75, of N.P.R. No. 7, dated 15th February 1908.)	Mr. John Morley's mercy for living beings.
13th " " ..	Scientific and Industrial Education. (Paragraph 4, page 98, of N.P.R. No. 9, dated 29th February 1908.)	Indian students in Foreign countries.
11th " " ..	The English policy of "Divide and rule." (Paragraph 15, page 105, of N.P.R. No. 9, dated 29th February 1908.)	Congress.
13th " " ..	*Swaraj* for the Indians (Paragraph 17, page 105, of N.P.R. No. 9, dated 29th February 1908.)	*Swadeshi* preaching in Tuticorin.
14th " " ..	India and the Anglo-Indians. (Paragraph 18, page 105, of N.P.R. No. 9, dated 29th February 1908.)	The two deceased Anglo-Indians.
20th " " ..	(Paragraph 14, page 116, of N.P.R. No. 10, dated 7th March 1908.)	Zekha Khel Expedition.
17th " " ..	The Government and the *Swadeshi* Industries. (Paragraph 16, page 117, of N.P.R. No. 10, dated 7th March 1908.)	Bengal Presidency Industrial Conference.
20th " " ..	The present condition of India. (Paragraph 29, page 122, of N.P.R. No 10, dated 7th March 1908.)	India and Andrew Carnegie.
22nd " " ..	The Arts College in Travancore. (Paragraph 23, page 137, of N.P.R. No. 11, dated 14th March 1908.)	Travancore a warning.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
22nd February 1908 ..	Boycott the foreign circuses. (Paragraph 32, page 139, of N.P.R. No. 11, dated 14th March 1908.)	Do not witness the circus of the whites. Do not pay circus tax along with the Government tax.
22nd " " ..	Boycott everything foreign. (Paragraph 33, page 139, of N.P.R. No. 11, dated 14th March 1908.)	Attempt at Boycott at Transvaal.
27th " " ..	The students and their Feringhee professors. (Paragraph 6, pages 155 and 156, of N.P.R. No. 12, dated 21st March 1908.)	Have you not still acquired sense.
29th " " ..	Tuticorin and its officials. (Paragraph 12, pages 158 and 159, of N.P.R. No. 12, dated 21st March 1908.)	Events at Tuticorin.
27th " " ..	The strike at the Coral mills in Tuticorin. (Paragraph 18, page 160, of N.P.R. No. 12, dated 21st March 1908.)	The strike at the Coral mills in Tuticorin.
5th March " ..	Swaraj is nothing new. (Paragraph 22, page 175, of N.P.R. No. 13, dated 28th March 1908.)	A swadeshi lecture by Sivangana Yogi at Kumbeswara Swami temple in Kumbakonam.
7th " " ..	Our workmen. (Paragraph 29, pages 177 and 178, of N.P.R. No. 13, dated 28th March 1908.)	Our workmen.
9th " " ..	The Zekha Khel expedition. (Paragraph 18, pages 198 and 199, of N.P.R. No. 14, dated 4th April 1908.)	Waste of twelve lakhs of rupees.
10th " " ..	Tuticorin and its officials. (Paragraph 19, page 199, of N.P.R. No. 5, dated 4th April 1908.)	Tuticorin news.
14th " " ..	The authorities and our patriots. (Paragraph 22, page 201, of N.P.R. No. 14, dated 4th April 1908).	What injustice?
16th " " ..	Pindi D as in Jail. (Paragraph 23, pages 201 and 202, of N.P.R. No. 14, dated 4th April 1908.)	Sufferings of Lala Pindi Das.
17th " " ..	The situation at Tinnevelly. (Paragraph 24, page 202, of N.P.R. No. 14, dated 4th April 1908.)	Tinnevelly disturbances.
11th " " ..	The civilization of the whites. (Paragraph 38, page 207, of N.P.R. No. 14, dated 4th April 1908.)	Natal. The zenith of the civilization of the whites.
11th " " ..	The worship of the whites. (Paragraph 39, page 207, of N.P.R. No. 14, dated 4th April 1908.)	The worship of the whites.
18th , " ..	The situation in Tinnevelly and Tuticorin. (Paragraph 6, pages 212 and 213.] of N.P.R. No. 15, dated 11th Apri 1908.)	The disturbances in Tinnevelly.
19th " " ..	The Indian Famine Fund. (Paragraph 7, pages 213 and 214, of N.P.R. No. 15, dated 11th April 1908.)	The Viceroy on Famine.
20th " " ..	Mr. Wynch as a Magistrate. (Paragraph 8, page 214, of N.P.R. No. 15, dated 11th April 1908.)	Punitive Police in Tinnevelly district.
21st " " ..	An additional Sub-Collector for Tinnevelly. (Paragraph 11, page 214, of N.P.R. No. 15, dated 11th April 1908.)	An additional Sub-Collector for Tuticorin.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
20th March 1908	The Tinnevelly deputation. (Paragraph 18, pages 216 and 217, of N.P.R. No. 15, dated 11th April 1908.)	Punitive Police in Tinnevelly district.
25th " "	The case against Mr. Chidambaram Pillai. (Paragraph 9, page 223, of N.P.R. No. 16, dated 18th April 1908.)	
23rd " "	The situation in Tinnevelly. (Paragraph 15, page 225, of N.P.R. No. 16, dated 18th April 1908.)	The oppression of officials in Tuticorin.
24th " "	(Paragraph 15, page 225, of N.P.R. No. 16, dated 18th April 1908.)	Never mind who is concerned.
27th " "	Regime of Mr. Morley. (Paragraph 16, pages 226 and 227, of N.P.R. No. 16, dated 18th April 1908.)	Sedition case against Chidambaram Pillai.
25th " "	The whites and the Indians. (Paragraph 29, page 230, of N.P.R. No. 16, dated 18th April 1908.)	
26th " "	The Indians and the British trade. (Paragraph 30, page 230, of N.P.R. No. 16, dated 18th April 1908.)	Set their eyes on Swadeshi Company.
31st " "	The charges against Major Elliot. (Paragraph 10, page 238, of N.P.R. No. 17, dated 25th April 1908.)	Government Ophthalmic Hospital—Major Elliot.
30th " "	Atrocities in and around Peshawar. (Paragragh 25, pages 242 and 243, of N.P.R. No. 17, dated 25th April 1908.)	Cruelties in Peshawar.
7th April "	Municipal administration in India. (Paragraph 11, pages 253 and 254, of N.P.R. No. 18, dated 2nd May 1908.)	The closure of the butchers' shops in Lucknow.
6th " "	The Tinnevelly Deputation. (Paragraph 18, page 266, of N.P.R. No. 18, dated 2nd May 1908.)	The Governor's remarks about the Tinnevelly disturbances.
4th " "	A rebuff to Moderates. (Paragraph 32, pages 261 and 262, of N.P.R. No. 18, dated 2nd May 1908.)	A whipping to the moderates.
4th " "	The B.I.S.N. Company *versus* the *Swadeshi* Steam Navigation Company. (Paragraph 34, page 263, of N.P.R. No. 18, dated 2nd May 1908.)	The Tuticorin *Swadeshi* Steam Navigation Company and the officials.
9th " "	Reservation of Forests. (Paragraph 18, page 28, of N.P.R. No. 19, dated 9th May 1908.)	Troubles caused by the Forest Department.
8th " "	The Governor's reply to the Tinnevelly Deputation. (Paragraph 21, page 282, of N.P.R. No. 19, dated 9th May 1908.)	The *Amirta Bazaar Patrika* writes.
18th " "	The District Magistrate must be an Indian. (Paragraph 29, pages 285 and 286, of N.P.R. No. 19, dated 9th May 1908.)	If the District Magistrate is an Indian.
9th " "	The whites and the Indians. (Paragraph 40, page 289, of N.P.R. No. 19, dated 9th May 1908.)	What injustice?
15th " "	The present state of Tinnevelly. (Paragraph 42, pages 290 and 291, of N.P.R. No. 19, dated 9th May 1908.)	The Tinnevelly trial.
21st " "	Justice is not for the Indians. (Paragraph 16, pages 304 and 305, of N.P.R. No. 20, dated 16th May 1908.)	If the mother-in-law breaks it is a mud vessel and if the daughter-in-law breaks it is a gold vessel.

Date of issue.		Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
27th April 1908	..	The whites and the Indians. (Paragraph 30, page 310, of N.P.R. No. 20, dated 16th May 1908.)	Who is superior? Is an Indian or a European dog, surely the dog.
2nd May "	..	Is there so much difference between a white and a black skin? (Paragraph 3, page 314, of N.P.R. No. 21, dated 23rd May 1908.)	A case of spitting on a white woman.
2nd " "	..	The Europeans and the Indians in service. (Paragraph 14, page 317, of N.P.R. No. 21, dated 23rd May 1908.)	Mr. Morley and the appointment to high offices.
5th " "	..	The Bomb outrage in Bengal. (Paragraph 15, pages 318 and 319, of N.P.R. No. 21, dated 23rd May 1908.)	The Bomb outrages in Bengal.
28th April "	..	The *Vande Mataram* Namavali. (Paragraph 31, page 323, of N.P.R. No. 21, dated 23rd May 1908.)	The *Vande Mataram* Namavali in Triplicane festival.
1st May "	..	Never pocket the insult of a white. (Paragraph 33, page 324, of N.P.R. No. 21, dated 23rd May 1908.)	An affray.
11th " "	..	The Bomb outrages in Calcutta. (Paragraph 2, page 329, of N.P.R. No. 22, dated 30th May 1908.)	What are the other causes for the Bomb outrage?
9th " "	..	Difference between a Democratic and Autocratic Government. (Paragraph 9, page 331, of N.P.R. No. 22, dated 30th May 1908.)	Government pension to aged men in England.
11th " "	..	Capability for self-protection is a *sine quâ non* now. (Paragraph 11, page 332, of N.P.R. No. 23, dated 30th May 1908.)	Self-protection.
15th " "	..	The Bomb outrage at Calcutta. (Paragraph 9, page 339, of N.P.R. No. 23, dated 6th June 1908.)	The conduct of our ancestors.
16th " "	..	(Paragraph 9, page 339, of N.P.R. No. 23, dated 6th June 1908.)	Who is responsible?
20th " "	..	The Englishmen and the Indians. (Paragraph 13, pages 340 and 341, of N.P.R. No. 23, dated 6th June 1908.)	One meal in two days.
21st " "	..	Whipping for the Indian agitators. (Paragraph 14, page 341, of N.P.R. No. 23, dated 6th June 1908.)	The flogging of agitators by sweepers.
26th " "	..	The *Times* on the present situation. (Paragraph 30, page 349, of N.P.R. No. 23, dated 6th June 1908.)	Future troubles and British rule.
3rd June "	..	*Nil*	American sympathy for India.
3rd " "	..	The *Spectator* on the recent outrages. (Paragraph 20, page 359, of N.P.R. No. 24, dated 13th June 1908.)	Who is the bad magistrate?
3rd " "	..	Justice and the Indians. (Paragraph 13, page 367, of N.P.R. No. 24, dated 13th June 1908.)	Drunkenness no crime.
5th " "	..	What if India is sold to Russia? (Paragraph 62, page 383, of N.P.R. No. 24, dated 13th June 1908.)	The virulence of Anglo-Indian papers.
5th " "	..	Do. do. ..	The suggestion of the *Madras Times*.
30th May "	..	India and her natural products. (Paragraph 57, page 381 and 382, of N.P.R. No. 24, dated 13th June 1908.)	America and India.
30th " "	..	The whites and the Indians. (Paragraph 19, page 368, of N.P.R. No. 24, dated 13th June 1908.)	Assault for omitting to use the word 'Sir'.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
6th June 1908 ..	It is not justice alone but equality and liberty too that the people require. (Paragraph 27, page 371, of N.P.R. No. 24, dated 13th June 1908.)	Ignorance of Englishmen.
2nd „ „ ..	The Indians cannot be slaves for ever. (Paragraph 58, page 382, of N.P.R. No. 24, dated 13th June 1908.)	The meekness of Indians and the severity of Englishmen.
16th „ „ ..	The Government is carried on with a purely selfish motives. (Paragraph 14, page 395, of N.P.R. No. 25, dated 20th June 1908.)	Why should the British statesmen speak thus ?
18th „ „ ..	The Executive and Judicial officers. (Paragraph 17, page 396, of N.P.R. No. 25, dated 20th June 1908.)	The Executive and the Judiciary.
25th „ „ ..	The partiality of the officials. (Paragraph 20, page 420, of N.P.R. No. 26, dated 27th June 1908.)	Can you pass close by.

2. Inspector S. Bavanandan Pillai of the Intelligence Department, Madras City, is directed to prefer without delay complaints of offences under the above sections of the Indian Penal Code before the Chief Presidency Magistrate against the abovesaid G. Subramania Aiyar.

(True Extract.)

M. HAMMICK,
Chief Secretary.

The Commissioner of Police, through the Inspector-General of Police.
Copy to the Crown Prosecutor, Madras.

VI

Telegram—from the Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 24th August 1908.
No.—808.

Governor in Council has authorised the institution of proceedings under sections 124-A, 153-A, and 505 of the Indian Penal Code against G. Subramania Aiyar, the editor, proprietor, printer and publisher of the Tamil newspaper called *Swadesamitran*, in respect of articles published in the newspaper since January last, and against M. Srinivasa Aiyangar, the editor, proprietor, printer and publisher of the Tamil newspaper called *India*, in respect of articles published in the newspaper since February last. Letter follows.

VII

Letter—from the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 25th August 1908.
No.—115 (Confdl.).

In continuation of my telegram No. 868, dated 24th August 1908, I am directed to forward, for the information of the Government of India, lists containing the names and dates of the articles, with references to the extracts published in the Weekly Report on Vernacular and Anglo-Vernacular Newspapers, in respect of which sanctions to prosecute the editors of the Tamil newspapers *Swadesamitran* and *India* were accorded by His Excellency the Governor in Council.

VIII

G.O., No. 1182-A, Judicial, dated 28th August 1908.

The attention of the Government has been called to the medical certificates which have been submitted to the Chief Presidency Magistrate in connection with the criminal proceedings instituted against Mr. G. Subramania Aiyar.

In view of the serious condition of Mr. G. Subramania Aiyar's health, the Government are prepared to withdraw proceedings under sections 124-A and 153-A of the Indian Penal Code, provided—

(1) Mr. G. Subramania Aiyar will give a personal undertaking to refrain in future from any public speaking or writing or any action which may tend to excite class-hatred or promote sedition or disloyalty to the Government.

(2) Mr. G. Subramania Aiyar will consent to be bound over in accordance with the provisions of section 108 of the Criminal Procedure Code.

IX

Declaration signed by Mr. G. Subramania Aiyar.

I have read the above Government Order and I am willing to abide by the condition offered.

28th August 1908. G. SUBRAMANIA AIYAR.

X

G.O., No. 1198-A, Judicial, dated 31st August 1908.

The Commissioner of Police, Madras, is requested to instruct the Crown Prosecutor without delay to take proceedings under section 108 of the Criminal Procedure Code, before the Chief Presidency Magistrate, against Mr. G. Subramania Aiyar for disseminating in writing seditious matter punishable under section 124-A, Indian Penal Code, and also matter the publication of which is punishable under section 153-A of the Indian Penal Code, with regard to the articles published in the *Swadesamitran* selecting four or five of those articles which are most incontravertibly seditious or likely to promote racial enmity or hatred.

If Mr. G. Subramania Aiyar, after formal evidence of the publication of the articles referred to is prepared to be bound over and is ready to give the securities required by the Magistrate, the Crown Prosecutor should ask the Magistrate to order Mr. G. Subramania Aiyar to enter into a bond in the sum of Rs. 5,000, with two sureties in Rs. 2,500 each.

After the proceedings against Mr. G. Subramania Aiyar have been completed and Mr. G. Subramania Aiyar has entered into a bond on the above terms, the Crown Prosecutor should withdraw the charges now pending against Mr. G. Subramania Aiyar in the Police Court and ask for his release.

XI

Order—No. 1212, Judicial, dated 2nd September 1908.

The following order will be despatched to the Commissioner of Police who will give the required instructions to the Crown Prosecutor:—

Under the provisions of section 108 of the Code of Criminal Procedure the Madras Government authorize the institution of proceedings under the said section against G. Subramania Aiyar as editor, printer, publisher and proprietor of the Tamil newspaper called the *Swadesamitran* in respect of certain articles published

therein between January 1st, 1908, and June 30th, 1908, in that by the publication of these articles the said G. Subramania Aiyar has disseminated or attempted to disseminate seditious matter punishable under section 124-A of the Indian Penal Code and matter punishable under section 153-A of the Indian Penal Code.

2. Inspector S. Bavanandam Pillai of the Intelligence Department, Madras City, is directed to lay information before the Chief Presidency Magistrate, Madras, under section 108 of the Code of Criminal Procedure in respect of the said articles against the said G. Subramania Aiyar.

(True Extract.)

M. HAMMICK,
Chief Secretary.

To the Commissioner of Police.
Copy to the Crown Prosecutor.

XII

Telegram—from the Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 9th September 1908.
No.—868.

Reference [my] telegram informing [the] Government of India that Governor in Council has authorized the institution of proceedings under sections 124-A and 153-A of the Indian Penal Code against G. Subramania Aiyar, as editor, printer, publisher and proprietor of the Tamil newspaper [called] *Swadesamitran*. Governor in Council has now withdrawn proceedings under sections 124-A and 153-A of the Indian Penal Code, and has taken action under section 108 [of the] Code of Criminal Procedure in consideration health and age of Subramania Aiyar who has been bound over under that section.

STRICTLY CONFIDENTIAL.

x 13

8/1212

Page 1

NOTES CONNECTED WITH G.O., No. 1212, JUDICIAL, DATED 2ND SEPTEMBER 1908.

(1)

[SUBJECT.—*Proceedings against the "Swadesamitran" under section 108 of the Criminal Procedure Code.*]

I

From the Commissioner of Police, No. 563 (b) I.D., dated 24th June 1908.

To Under Secretary—

Submitted for orders.

H.T.—26-6-08.

To Chief Secretary—

The general tone of these extracts brings them within the law, but there is nothing very much in any of them taken by itself. Submitted that though a prosecution would probably be successful, it is not likely that Mr. Subramania Aiyar would get a long sentence. On the other hand, he would receive a tremendous advertisement and the circulation of his paper would probably increase greatly.

The Under Secretary's sympathies with Subramania Aiyar plainly blind him to facts. I trust as he grows older he will grow wiser.

G. S[TOKES]—28-7-08.

2. Submitted that a warning to be followed by security proceedings, if necessary, will meet the case.

A. GALLETTI—26-6-08.

To Honourable Member and circ.—

The *Swadesamitran* is the worst offender of all. I submit that prosecution is undoubtedly called for in this case.

J. N. ATKINSON—26-6-08.

I am very loath to advertise this man any more than he advertises himself. However I do not think a warning would do any good. The man is clever and his game is no doubt to go just as close as he can to the limit—and a warning won't stop him. He was careful the other day in his Tanjore speech to keep well within bounds, and possibly he may be a bit frightened by the prosecutions elsewhere. I almost think I would wait another month's issue of his paper and see if he is going to moderate his tone. If his next two or three issues contain anything which would bring him within the law I would prosecute. Probably Tilak's arrest in Bombay will excite him to say something violent.

On the other hand, a prosecution simultaneously launched against this paper and *India* may have the result of stopping this kind of writing down here and on that account it may be advisable.

On the whole I am inclined to wait a little longer.

M. H[AMMICK]—27-6-08.

I have long been of the opinion that the *Swadesamitran* had frequently overstepped the bounds, and I find 21 extracts stated by the Advocate-General to be within the law. I do not see the good of waiting any longer and I would prosecute the paper at once.

G. S[TOKES]—27-6-08.

I agree that we should institute proceedings.

The 11th May is the date of the last extract. Please have all the issues since that date carefully scrutinised to see if any more recent sedition-preaching has been carried on, and can be included in the proceedings.

A. L[AWLEY]—29-6-08.

Attend to His Excellency's note sharp.

J.N.A.—29-6-08.

Draft Official Memoranda to the Commissioner of Police and to the Advocate-General are submitted.

H.T.—29-6-08.

C. A. SOUTER—30-6-08.

Issue to-day.

J.N.A.—30-6-08.

II & III

[Issued as Official Memoranda, No. 89-1, dated 30th June 1908.]

For orders whether a reminder should be sent.

H.T.—20-7-08.

Remind the Advocate-General.

C.A.S.—20-7-08.

I do not understand His Excellency's note to mean that proceedings should be stopped till this extra scrutiny is made. Please bring to Council to-morrow.

G. S[TOKES].

Order in Council.

Advocate-General to be telegraphed to for opinion if possible within 24 hours in this case and as to *India*.

G. S[TOKES].

J.N.A.—24-7-08.

[Telegram submitted in file regarding prosecution of *India*.]

IV

From the Advocate-General, dated 25th July 1908.

To Under Secretary—

Submitted with references to the extracts in the Newspaper Reports have been quoted against each article as directed.

H.T.—27-7-08.

To Chief Secretary—

These papers have been submitted in a very unsatisfactory manner. No translations of the various passages have been given and the opinion of the Advocate-General seems to be superficial. In some places he has given no opinion at all. I, therefore, have had the weekly newspaper reports examind to see if the articles have been reported in them. References will be found against each section of the Advocate-General's opinion.

J.N.A.

It is to be remembered that the weekly reports are little more than paraphrases. The Advocate-General's opinion must therefore be taken largely on trust.

(1) *Article, dated 15th May, page* 339 *of Report.*—It may be agreed that no proceedings could be based on this article. The English are, however, called " beasts " or " wild animals " which shows racial animus.

(2) *Article, dated 16th May, page* 339 *of Report.*—There is nothing in this article. It is merely an argument against repressive measures and seems in no way seditious.

(3) *Article, dated 20th May, pages* 341-1 *of Report.*—This article accuses the English of draining the wealth of India, of killing and beating Indians, and of prejudicing the Government against Indians. The Advocate-General says that it will fall under section 124-A. It seems more to fall under section 153-A as it clearly incites class hatred.

Both sections.

J.N.A.

(4) *Article, dated 21st May.*—Same reference. This article is a reply to the suggestion of the *Englishman* that the agitators should be publicly flogged by sweepers. The suggestion is outrageous and warrants a reply. The Advocate-General apparently does not consider the article obnoxious. One sentence, however, occurs which is objectionable: "Perhaps they have "forgotten that once the heads of the Whites rolled like cocoanuts in Northern India." The Advocate-General is not inclined to lay stress on this, but it certainly sounds like an invitation to retaliate.

(5) *Article, dated 26th May—page 349 of Report.*—This article ascribes famine to the Government as a result of heavy taxation, extravagance and the destruction of local industries. The Advocate-General thinks it falls under section 124-A. It seems to do so.

This is the sort of calumny which should be stopped, if possible.

J.N.A.

Exactly, with an ignorant populace it is the most telling argument he could put forward and the most untrue.

G. S[TOKES].

(6) *Article, dated 3rd June—pages 368–9 of Report.*—This article ascribes events in Cocanada and Tinnevelly to the action of Government in upholding the deeds of bad Magistrates. It seems to fall under section 124-A, but the Advocate-General thinks it may be used only by way of evidence.

(7) *Article, dated 3rd June—page 367 of Report.*—A drunk soldier who killed a man was acquitted. The writer asks how Indians can be loyal when there is such injustice. The Advocate-General gives no opinion on this article which may perhaps be neglected.

(8) *Article, dated 5th June—page 383 of Report.*—This is a reply to a humorous suggestion in the *Madras Times* that King Edward went to Russia to sell India to the Czar. The article seems to welcome the idea, and the Advocate-General thinks it unjustifiable even as a retort against the *Times*.

(9) *Article, dated 30th May—pages 381–2 of Report.*—This article says that unlike President Roosevelt in America the British are anxious only to drain the wealth of India. The Advocate-General thinks the article seditious. It seems to be so.

This is it again.

G. S[TOKES].

(10) *Article, dated 6th June—page 371 of Report.*—This article says justice is not given to Indians, and the Advocate-General thinks it falls under section 124-A. It seems so to fall, but by itself would not appear to warrant proceedings.

(11) *Article, dated 2nd June—page 382 of Report.*—This article is a reply to Sir Charles Elliot to whom it gives the lie direct. The only really objectionable passage is at the end in the reference to 30 crores of Indians, but the Advocate-General does not think any offence has been commited.

(12) *Article, dated 16th June—page 395 of Report.*—This seems a harmless article.

(13) *Article, dated 18th June—page 396 of same Report.*—This is merely a comparison of the values of the Executive and Judiciary. It is not seditious.

(14) *Article, dated 25th June—page 420 of Report.*—This article compares the treatment given to a peon who brushed against a lady with that given to Englishmen who ravish Indian women. The Advocate-General thinks it may be used as evidence.

Of the above articles the Advocate-General thinks that numbers (3), (5), (8), (9) and (10) will fall under section 124-A and that numbers (6) and (14) may be used as evidence. As pointed out above we have no exact translations of the articles and the reports give only a précis. The Advocate-General has written obviously in a hurry, and I submit that there is a certain amount of danger in taking him completely on trust.

C. A. SOUTER—28-7-08.

To Hon'ble Mr. Hammick, C.S.I., *and circ.*—

The object in having these later issues of the *Swadesamitran* and *India* (linked file) scrutinized was to see whether there had been such an improvement in the tone of the two papers as to justify abstention from prosecution in respect of the earlier issues.

I submit that there is no such improvement. The language employed may be less violent, but the intention of stirring up disaffection and race hatred is as pronounced as ever. There is no need to sanction separate prosecution in the case of these later issues, which would only be used in proof of animus. I think that the prosecution in respect of the earlier issues—or better in respect of any three issues which counsel may select—should be sanctioned. The *Swadesamitran* and *India* have been the worst of all the vernacular papers, and their wide circulation and (comparatively) influential ownership should not protect them.

G. S[TOKES].

G. S[TOKES].

I circulate the papers *special* that if possible they may reach His Excellency this evening.

J.N.A.—28-7-08.

16

I have expressed my view that we should not prosecute unless subsequent issues to those first submitted showed a continued intention to create disaffection and produce class hatred. I have read these subsequent issues and the Advocate-General's opinion. He has served us badly having taken 9 days to study these papers and done nothing, and then given us a miserable opinion. On the whole, I think, we may prosecute both the *India* and the *Swadesamitran* on the worst of these articles. I think there is no doubt they tend to produce disaffection and class hatred. And I think, although, I do not feel sure on this point, that a prosecution will do good. If we prosecute we shall have to watch very carefully the proceedings. I suppose the Advocate-General should prosecute. However that can be considered later. The Crown Prosecutor Mr. Grant will, I suppose, appear for Government in the Police Court

M. H[AMMICK]—28-7-08.

I would certainly prosecute both papers without any further delay. I do not think the Advocate-General should prosecute. It is the ordinary duty of the Crown Prosecutor.

G. S[TOKES]—28-7-08.

I think that we should institute proceedings, against both these papers. We should, I think, prosecute in respect of the three most flagrant cases selected by counsel using the other articles as corroborative evidence of the animus of the writer.

The Crown Prosecutor should take up the cases *without delay*.

A. L[AWLEY]—28-7-08.

Draft.

J.N.A.—29-7-08.

To Chief Secretary—

Please see the draft order below It is, I think, perfectly in accordance with law if the decision in I.L.R., Bom., XXII, page 112, is accepted (*vide* especially at pages 123 and 124). It will be best however to write demi-officially to the Crown Prosecutor in the following terms:—

"The Government have authorised the prosecution of the editors of the *Swadesamitran* and "*India* newspapers under sections 124-A, 153-A and 505 of the Indian Penal Code in respect of "certain articles which have appeared in them for some months past. I enclose herein copies of "the respective orders which it is proposed to issue sanctioning the prosecution. They follow "the language of the order in the Tinnevelly case which was drafted in consultation with the "Advocate-General and the decision in I.L.R., Bom., XXII, 112 has been carefully considered "in drafting them. Please let me know at once whether in your opinion these orders are "good and sufficient, or whether they can be impugned as for instance on the grounds that "the periods of 6 and 5 months covered by the articles are too long. If you think the "orders sufficient, please wire to me at once, and the signed order of sanction will then be issued "to the Commissioner. I am directed to request you to be very careful in instituting "complaints. You should strictly follow the provisions of the Criminal Procedure Code "regarding the joinder of charges and should select, in consultation with the Commissioner "of Police, the three articles which you consider most violent in each newspaper and draft the "complaint or information in regard to them. You should report, for the information of Govern-"ment, without delay the articles which you select. Other articles may be produced in Court "in proof of the intention of the writer. It is possible that the prosecution may fail, and "subject to your advice the Government consider that, in view of this possible contingency, it "would be well to complain or be prepared to complain in respect of a second or more sets of three "articles. There is the risk that if not more than one complaint be put in at first, Government "would be precluded from putting in others afterwards. I am to ask you for your advice on this "point and to say that if you concur in these views [you will be at liberty to select more than one "set of three articles, if necessary, but it will suffice if you can obtain a conviction on one set].

"Lastly, it is very necessary that you should keep these orders strictly confidential until "warrants have issued and until the Police have been enabled to make a search of the accused's "premises if they so desire. A copy of this demi-official is being sent to the Commissioner of "Police."

India will be informed when a complaint has been filed.

C.A.S.—29-7-08.

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

The draft order of sanction is put up for approval. It follows the order in the Tinnevelly cases which was drafted in consultation with the Advocate-General.

In the Tinnevelly case sanction was given in respect of speeches extending over *two* months: in the present case the sanction applies to newspaper articles that have appeared during a period of six months. It is just possible that objection may be raised to the length of time: but in Tilak's case (I.L.R., Bom., XXII—112, 599) the sanction was much vaguer, no limit of time being stated. Further, it must be remembered that the complaint or information will set out the exact articles in respect of which charge is laid, so that the accused cannot be prejudiced.

If, however, there is any doubt we might perhaps send a copy of the proposed order of sanction to Mr. Nugent Grant (Crown Prosecutor) and ask him to say whether it is all right. This need cause no delay, for Mr. Grant will have to go through all the articles, and select those in respect of which prosecution is to be made.

Yes, I would do this; it will cause no delay.
M. H[AMMICK].

The portion in brackets in Mr. Souter's draft demi-official should, I think, be omitted. It means that Mr. Grant is at liberty to make more than one complaint, and that I think is not the intention. The demi-official otherwise may be approved.

The sentence should be omitted, I think.
M. H[AMMICK]—29-7-08.

The complaints cannot be preferred by the Crown Prosecutor, as Mr. Souter has drafted in the order of sanction; I have inserted Inspector S. Bavanandam Pillai, as desired by Mr. Wilkieson in his letter, dated 21th June.

The draft order in the *India* case is in the linked file.

J.N.A.—29-7-08.

I think the order is correct.

M. H[AMMICK].

I think the sanction is quite correct and I do not think anything more need be said about it to Mr. Grant except that he may raise a question on it if he thinks it necessary. Of course a copy of the sanction must be sent him and the sanction must be filed with the complaint.

I do not understand His Excellency's note to mean that we are not to proceed on more than three cases. There are over twenty of those articles and more than ten of them are highly objectionable. I think therefore that the Crown Prosecutor should be given liberty to proceed on more than three articles, *i.e.*, that he should be at liberty to split up the proceedings into more than one case. It may seriously prejudice the result unless he has such liberty. I would leave in the sentence in brackets in Mr. Souter's demi-official. At any rate Mr. Grant's opinion and that of the Commissioner should be got. If we do not put in more than one complaint in the beginning we cannot put in others afterwards, but if a conviction is got on our complaint we can withdraw the others. We should have more than one string to our bow.

G. S[TOKES]—29-7-08.

Demi-official—from the Hon'ble Mr. J. N. ATKINSON, I.C.S., Acting Chief Secretary to Government.
To—H. F. WILKIESON, Esq., Commissioner of Police.
Dated—30th June 1908.

I am directed to enclose a copy of a demi-official and of its enclosures to Nugent Grant, and to ask you to consult with him on the matter.

The demi-officials to Mr. Grant and the Commissioner of Police have issued, the file is resubmitted to Chief Secretary as directed.

H.T.—30-7-08.

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

There was some difference of opinion between the Honourable Members as to the terms of the proposed demi-official to the Acting Crown Prosecutor. To avoid the delay in recirculating the papers I amended the draft demi-official so as, if possible, to embody both Honourable Member's views. A copy of the amended demi-official, which has issued to-day, is on pages 4 and 5.

J.N.A.—30-7-08.

I agree with the views in the demi-official. The matter is one of law and we must be guided by the advice of the Crown Prosecutor.

M. H[AMMICK]—1-8-08.

I fully approve the demi-official.

G. S[TOKES]—2-8-08.

To Under Secretary—

The file has been marked for circulation by Chief Secretary.

It is, however, respectfully submitted for orders whether a copy of the Advocate-General's opinion which was submitted to Government direct, and the issues of the newspapers examined by the Advocate-General should not be sent to the Crown Prosecutor. Without these he will have nothing to go by, and there may be delay if he is to obtain copies of the papers.

If this is considered unnecessary the file will be sent in circulation.

H.T.—30-7-08.

To Chief Secretary—

Of course. I only wanted Honourable Members to see the demi-official as amended.

J.N.A.—31-7-08.

The opinion should, I submit, go to the Crown Prosecutor. It would, in the ordinary course, go with the formal order.

C.A.S.—31-7-08.

Demi-official—from C. A. SOUTER, Esq., I.C.S., Under Secretary to Government.
To—N. GRANT, Esq., Crown Prosecutor.
Dated—31st July 1908.

With reference to Mr. Atkinson's demi-official of yesterday, I am directed to enclose a copy of the Advocate-General's opinion, dated the 25th July, and the newspapers examined by him in consultation with Mr. Wilkieson. The papers should be returned without delay with your reply.

Demi-official—from N. GRANT, Esq., Crown Prosecutor.
To—the Hon'ble Mr. J. N. ATKINSON, I.C.S., Acting Chief Secretary to Government.
Dated—1st August 1908.

I am in receipt of your demi-official of the 30th ultimo together with the copies of the orders which Government proposes to issue sanctioning the proceedings in the two cases referred to therein.

In view of the period of time over which the articles extend, and the expediency of preferring more than one complaint in each case, I consider it would be safer if the several articles in respect of which complaints should be lodged were specified in the orders sanctioning the prosecution.

This will, in my opinion, obviate the possibility of the orders being impugned.

I shall carefully peruse the file of articles in the two cases, and select such of them as I together with the Commissioner of Police consider most violent.

I shall report to Government what articles have been selected and supply the details necessary for the several orders.

I think it advisable that two or more complaints should be preferred in each case, each complaint having for its subject-matter a set of three articles, so that in the event of any one complaint failing we might proceed with the other or others.

If Government agrees with my views I will require an order in respect of each complaint specifying the articles complained of.

Telegram—from the Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—4th August 1908.

Your demi-official, 30th ultimo. Please return enclosures to my letters No. 563 (*a*) I.D. and 563 (*b*) I.D., dated 24th May 1908, for reference.

The enclosures referred to by the Commissioner of Police are those connected with his letters in the two linked files. The following demi-official is for approval in case they are to be returned :—

Demi-official—from C. A. SOUTER, Esq., Under Secretary to Government.
To—H. F. WILKIESON, Esq., Commissioner of Police.
Dated—4th August 1908.

With reference to your telegram of date, I am directed to return, for reference, the enclosures to your letters No. 563 (*a*) I.D. and 563 (*b*) I.D., dated the 24th June *.

* The telegram states 24th May.

Issue. We don't want these enclosures now.

J.N.A.—4-8-08.

[Issued as demi-official, dated 4th August 1908.]

After His Excellency's return circulate to His Excellency the Governor.

J.N.A.—4-8-08.

To Chief Secretary—

On page 6 will be found Mr. Nugent Grant's reply to the demi-official of the 30th July. It is unsatisfactory in that it really gives no legal opinion on the points raised. No discussion is given of the terms of the proposed sanction to prosecute. I propose the following demi-official in reply :—

Demi-official—from the Hon'be Mr. J. N. ATKINSON, I.C.S., Acting Chief Secretary to Government.
To—N. GRANT, Esq., Crown Prosecutor.
Dated—4th August 1908.

"I am in receipt of your demi-official of the 1st August which is a reply to my letter of the "30th July regarding the prosecution of the *Swadesamitran* and *India*. I am to say that "Government are not satisfied with your discussion of the legality of the order which they propose "to issue. As pointed out in my previous demi-official this order was drafted after a careful "consideration of the similar order in Queen-Empress *v.* Bal Gangadhar Tilak, I.L.R., 22 Bom., "112, and also of that passed in the recent case against Chidambaram Pillai while that in Empress "*v.* Apurba Krishna Bose, I.L.R., XXXV Cal., 141, was also kept in view. The order in "Chidambaram Pillai's case was drafted in immediate consultation with the Advocate-General. "You do not, however, in your letter under reply offer any opinion on these cases, though according "to the view which you appear to hold, the sanction in all of those cases must have been insufficient "and illegal. There seems no reason to anticipate that a sanction in terms more detailed and "particular than one (that in Tilak's case) already upheld by two different High Courts will be

A "deemed insufficient by the Madras High Court. Details have however now been inserted in "the orders of sanction of every article covered by them. The course which you propose, viz, "to have a separate order of sanction on each complaint seems clearly unnecessary, and would result "in a waste of time. The Government agree with you that it would be advisable to have more "than one complaint, but after you receive the order to prosecute you should use your discretion as "to the number of complaints to be filed bearing in mind that conviction in one case is all that "Government desire. You should now, in consultation with the Commissioner of Police and "without delay, institute proceedings before the Chief Presidency Magistrate."

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

Mr. Nugent Grant in his letter on the previous page above raises what must surely be untenable objections to the sanction that Government proposed to issue in the *Swadesamitran* and *India* cases.

He wants Government to specify the particular articles in respect of which sanction is given —a course which would not only be inconvenient, and might cause failure of the prosecution, but which has been specially declared unnecessary in the "Tilak" and "Bose" cases.

And then he wants a separate order of sanction for each complaint. This also seems quite unnecessary.

I submit that the original order of sanction may at once be issued as drafted, and Mr. Grant told to get his charges filed sharp.

A draft reply to Mr. Grant is above.

J.N.A.—4-8-08.

Yes. I agree. Mr. Grant does not promise very well, I fear.

M. H[AMMICK]—5-8-08.

It is not unlikely that the sanction is sufficient and will be held so by the Madras High Court, but it would certainly be safer to put in the margin the date and heading of all the extracts on which we are proceeding. I do not know whether we have the papers here put, if not the information might be got by telegraph from the Commissioner of Police. No separate sanction is required for each complaint.

G. S[TOKES]—5-8-08.

I am afraid the papers have gone back to Madras. If so wire for the particulars mentioned by the Honourable Member.

J.N.A.—5-8-08.

The following telegram to the Commissioner of Police is submitted. It is for orders whether the reply of the Commisioner should be by letter or telegram.

They had better come by letter perhaps. It seems unsafe for various reasons to telegraph the names of the articles.

C.A.S.—6-8-08.

Telegram to the Commissioner of Police, Madras.

"Please forward by letter to-day dates and headings as given in the newspapers themselves "of all the extracts forwarded with your letters "563 (*a*) I.D. and 563 (*b*) I.D., dated 24th "June 1908."

May issue.

C.A.S—6-8-08.

2. The recent issues of the papers examined by the Advocate-General are enumerated in his opinion on pages 3—5 of current file.

3. It is moreover respectfully submitted that the extracts forwarded by the Commissioner of Police in his two letters mentioned in the telegram were cuttings from the reports on vernacular newspapers, and though the heading which appears against each extract in the newspaper report gives the purport of the article, it does not represent the name of the article as it appeared in the newspaper. Please see the names of the articles mentioned in the Advocate-General's opinion on pages 3—5 of current file, and the references to these articles in the Vernacular Newspaper reports put up.

H.T.—5-8-08.

To the Chief Secretary—

C.A.S.—6-8-08.

I think the telegram above is clear, and the Commissioner should be able to let us have the information by to-morrow afternoon. Issue the telegram *urgent* at once and let me have the file for Council to-morrow.

J.N.A.—6-8-08.

[Issued as telegram No. 752, dated 6th August 1908.]

To Under Secretary—

The file is submitted for orders as it has been decided not to hold a Council to-morrow.

H.T.—6-8-08.

To Chief Secretary—

C.A.S.—6-8-08.

Await the Commissioner's reply.

J.N.A.—6-8-08.

[From the Commissioner of Police No. 563 I.D., dated 6th August 1908.]

Issue the following telegram to the Commissioner of Police :—

755. Your No. 563. Get the headings and dates from Tamil Translator going in person and send them by to-morrow's mail.

C.A.S.—7-8-08.

To Hon'ble Mr. Hammick, C.S.I. and circ.—

I invite attention to the Hon'ble Mr. Stokes' note above. At last the particulars wanted have been received from the Commissioner of Police. It is for orders whether sanction may now issue with dates and headings of the articles inserted. I think they should be inserted in the body of the sanction if anywhere. Every incriminated article is included in Mr. Wilkieson's lists apparently.

Note.—The Hon'ble Mr. Hammick declined to note, as he had ceased to be Honourable Member by the time the file reached him.

J.N.A.—10-8-08.

B | One sanction for each paper is to issue, I presume, not one for each charge.

J.N.A.—10-8-08.

It does not matter where the title and date of the articles are inserted, provided it is plain that they are a part of the sanction both limiting it and conveying to the accused person what Government is going on.

I do not quite understand? I take it to mean that there is to be one Proceedings of Govern-**B** | ment sanctioning the prosecution of the *Swadesamitran* in respect of the articles named which appeared in it, and another and separate Proceedings in regard to the *India*. If so I think this is right.

G S[TOKES]—10-8-08.

Please put up draft sanctions, inserting articles in the body of the order.

J.N.A.—10-8-08.

To Chief Secretary—

Please see the draft below.

C.A.S.—10-8-08.

To His Excellency the Governor—

These are the papers regarding the prosecution of the *Swadesamitran* and *India*. After Your Excellency's note, dated 28th July (on page 13), a draft demi-official to the Crown Prosecutor was prepared; but in consequence of some difference of opinion between the Honourable Members it had to be amended, and did not issue till 30th July. The Crown Prosecutor replied on 1st August, and wanted quite a different kind of sanction from what Government proposed. His letter was discussed by the Honourable Members, and the Hon'ble Mr. Stokes wanted further particulars to be entered in the orders of sanction. These particulars have just been obtained, and a draft order of sanction is now put up in accordance with the Hon'ble Mr. Stokes' and final note above.

There is a draft reply to the Crown Prosecutor on page 7 of these notes. This has not yet issued; but may now do so with the slight addition. I have inserted at **A** and the omission of the words at **B**.

J.N.A.—10-8-08.

Form of sanction and draft reply to the Crown Prosecutor approved.

A. L[AWLEY]—10-8-08.

Issue.

J.N.A.—10-8-08.

V

[Issued as G.O., No. 1102, dated 11th August 1908.]

The Government orders have issued. Draft telegram to the Government of India informing them of the sanctions is submitted for approval.

H.T.—11-8-08.

To Chief Secretary—

The telegram may issue *after* the arrest of the two accused. A letter will also be sent to India referring to the Secret Abstract report of each article in respect of which action has been taken.

C.A.S.—12-8-08.

Yes. Wait for arrest, then send telegram and draft letter please.

M.H.—12-8-08.

Telegram—from the Chief Secretary to Government.
To—the Inspector-General of Police.
Dated—21st August 1908.
No.—798.

Why has no action yet been taken on G.O., No. 1102, dated 11th instant?

To Under Secretary—

The newspapers received yesterday evening announce that G. Subramania Aiyar and M. Srinivasa Aiyangar have been arrested. Submitted that the telegram to the Government of India may now issue.

2. A draft letter to the Government of India is also submitted.

H.T.—23-8-08.

Issue telegram.

C.A.S.—23-8-08.

VI

[Issued as telegram No. 808, dated 24th August 1908.]

To Chief Secretary—

Draft letter for approval.

C.A.S.—23-8-08.

Issue.

M.H.—24-8-08.

VII

[Issued as letter No. 115, dated 25th August 1908.]

Demi-official—from F. ARMITAGE, Esq., Assistant Inspector-General of Police.
To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
Dated—22nd August 1908.

With reference to the Government's telegram No. 798 of yesterday asking why no action had been taken on G.O., No. 1102, dated the 11th instant, ordering the prosecution of two Madras newspaper editors, you will doubtless have seen that action was taken yesterday. I have asked the Commissioner of Police the reason for the delay. He says that he got the Government Order on the 13th, and that it was sent to the Crown Prosecutor on the 14th and that some consultation took place and the complaints were drafted on the 17th (3 days' delay). They were filed in Court on the 18th (4 days) as the Police officer to do so was engaged in Sessions on the 17th, and warrants were issued on the same date.

The Commissioner thought it advisable to secure G. Subramania Aiyar, who was at Tenkasi, before taking action in Madras and so sent men to arrest him, and on hearing from them yesterday by wire that he had been taken into custody, he executed the remaining arrest warrant and the search warrants.

I am writing this as the Inspector-General is in camp and am sending him the telegram and copy of this letter.

M.H.—24-8-08.

Demi-official—from the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.

To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.

Dated—28th August 1908.

I received your letter * of the 26th and the copy of the Government Order of the 26th at 11 A.M. to-day and saw Mr. G. Subramania Aiyar during the afternoon recess. I let him read the Government Order and explained to him that undertaking No. 1 would bind him for all future time and that in accordance with the second undertaking he would be expected not to oppose the passing of an order against him under section 108, Criminal Procedure Code. He said that while he had no idea of disclaiming responsibility for the articles, he would not like to admit that the writings were seditious or likely to promote class hatred. I told him that while it would not be necessary for him to admit the objectionable character of the writings, he would be bound to abstain from any attempt to defend his conduct or justify the articles. I may point out here that notwithstanding his consent or undertakeing it would be necessary for the Government to let in formal evidence before the Presidency Magistrate of his connection with the paper and file all the objectionable articles. The order of the Magistrate must be based on evidence and not on the consent of the accused. He has fully understood the situation and has expressed his willingness in writing to abide by the conditions offered. I would suggest that the proceedings under section 108 might be initiated at once and expedited and that he might be released on the execution of the security bond. This need not take any time and he is not therefore likely to be prejudiced by the course suggested.

* (Not sent into office).

To Honourable Member and circ.—

I submit the Advocate-General's letter in reply to mine. He has seen Mr. G. Subramania Aiyar, who while saying that he had no idea of disclaiming responsibility for the articles, says he would not like to admit that they were seditious or likely to promote class hatred.

The Advocate-General told him that it would *not* be necessary for him to admit the objectionable character of the writings, but that he would be bound to abstain from any attempt to defend his conduct or justify the articles.

The Advocate-General points out that in any case it would be necessary for the Government to let in formal evidence before the Presidency Magistrate of his connection with the paper and file all the objectionable articles, as the order of the Magistrate must be based on evidence before him and not only on the consent of the accused.

Mr. G. Subramania Aiyar expressed his willingness in writing to abide by the conditions offered.

The Advocate-General suggests immediate action and the release of Mr. G. Subramania Aiyar as soon as he has executed the security bond.

Under the last sub-section of section 108, Criminal Procedure Code, the authority of the local Government is necessary before action can be taken under section 108, Criminal Procedure Code.

I submit, therefore, that the proper course now is to draft a formal Government order reading the Government order of the 26th August 1908 and the Advocate-General's letter in reply and formally authorising the Commissioner of Police, Madras, to take action at once to lay information before the Chief Presidency Magistrate and ask him to require Mr. G. Subramania Aiyar to show cause why he should not be bound over.

The Commissioner will then instruct the Crown Prosecutor accordingly.

I can also write to Mr. Wilkieson and explain the matter and ask him to lose no time in instructing Mr. Grant in the matter.

The amount of security is, I suppose, a matter for the Magistrate, but he may ask the Crown Prosecutor what sum he would suggest. I imagine something like Rs. 5,000 would be sufficient, with perhaps one surety, or perhaps it will be sufficient to do without any sureties. It is on Mr. G. Subramania's good faith that Government must depend.

Mr. Wilkieson can be asked to wire as soon as the bond has been executed, when Government can at once wire to Mr. Grant to withdraw the complaint and ask the Magistrate to direct the release of the accused, or perhaps better the Government order can direct the Crown Prosecutor to take this action at once on the bond being signed.

I understood from the Hon'ble Mr. Stokes that if Mr. G. Subramania Aiyar consented to the terms action might be taken at once—so that it is perhaps unnecessary to wait for his return before taking action.

M.H.—30-8-08.

This is so far satisfactory.

I suppose a Government order must issue giving instructions to the Commissioner of Police (a letter would have been better, but it is not usual here In the Government order however it seems unnecessary to set out the Government order of the 26th or the Advocate-General's letter. I would simply read them by number and date only without any indication of contents. The Government order would then direct the Commissioner of Police to instruct the Crown Prosecutor to proceed under the Criminal Procedure Code, and if G. Subramania Aiyar after formal evidence of the publication of the articles and their seditious, etc., character was prepared to be bound over and gave the securities required by the Magistrate then he was to *withdraw* the prosecution under the Penal Code.

> I agree.
>
> A. L[AWLEY].

If thought necessary a copy of the former Government order and of the Advocate-General's letter may be sent *confidentially* demi-officially to the Commissioner of Police for communication confidentially to the Crown Prosecutor so that he may understand the situation, but I think the formal Government order had better contain in substance more than what I have indicated—suitably drafted of course.

> I think that this should be done.
>
> A. L[AWLEY].

There are points of detail to be further considered—

(1) the amount of the sureties—himself in Rs. 5,000 and *two* sureties in Rs. 2,500 each would not be more (rather less) than the case requires and the Crown Prosecutor may propose this;

> I think that this would be sufficient. But as Mr. Hammick says he must rely on the man's good faith.
>
> A. L[AWLEY].

(2) as to the articles to be exhibited against G. Subramania Aiyar in the proceedings under the Criminal Procedure Code, I do not think I should file all the articles upon which it was proposed to prosecute under the Indian Penal Code. Several of them appear very weak and it would be quite enough to select 3 or 4, or 4 or 5, of those that are most incontrovertibly seditious, etc.;

> Very well.
>
> A. L[AWLEY].

(3) the private undertaking has already, as I understand from the Advocate-General's letter, been given and that need not be given in Court over again, it is a private undertaking to the Government;

(4) the Crown Prosecutor should state in Court at the end of the proceedings, if they are successful, that Government have been moved to take the course they have adopted in consideration of G. Subramania Aiyar's state of health as well as of his age and of the fact that he has given Government a private undertaking to abstain from the future from public speaking or writing, etc. (as in Government order of 26th August).

> I think that this is very necessary.
>
> A. L[AWLEY].

These points may be put in a demi-official as I have suggested above.

G.S.F.—30-8-08.

I agree that action should be taken on the lines indicated by the Hon'ble Mr. Forbes. I think that we should inform the Advocate-General of our action.

A. L[AWLEY]—30-8-08.

Demi-official—from the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.

To—the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.

Dated—Ootacamund, 31st August 1908.

I am to-day sending the Commissioner of Police an order to instruct the Crown Prosecutor to take action as proposed under section 108, Criminal Procedure Code, against Mr. G. Subramania Aiyar in accordance with the course suggested in your letter, dated 28th August 1908.

Demi-official—from the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
To—H. F. WILKIESON, Esq., Commissioner of Police.
Dated—31st August 1908.

I enclose you a Government order of to-day's date attached to this letter also copy of a Government order of the 26th of August and the letter from the Advocate-General, dated 28th of August. These will explain the matter to you. Will you kindly instruct the Crown Prosecutor to carry out the orders in the Government order as soon as possible. You may, of course, in confidence show the Crown Prosecutor the Government order and letter from the Advocate-General. As some of the articles in the cases against G. Subramania Aiyar are not as strong as others, it will be enough as stated in the Government order, to select three or four or four or five of those that are most incontrovertibly seditious or calculated to produce race hatred. The private undertaking has already been given and that need not be given in Court over again. Please be very particular in asking the Crown Prosecutor to state in Court at the end of the proceedings if they are successful that Government have been moved to take the course they have adopted in consideration of G. Subramania Aiyar's state of health as well as his age and the fact that he has given Government a private undertaking to abstain in future from any public speaking or writing or any actions which may tend to excite class hatred or promote sedition or disloyalty to the Government.

To the Hon'ble Mr. Stokes, C.S.I.—

I submit, for Honourable Member's information, all the papers concerned with Mr. G. Subramania Aiyar.

The order went out by yesterday's post—and to-day or to-morrow the proceedings should come on before the Presidency Magistrate.

There may be a little delay as the Crown Prosecutor has been told to select the articles to be laid before the Presidency Magistrate.

If the Honourable Member will return the papers they will be kept and eventually printed up as confidential proceedings.

M.H.—1-9-08.

I saw the Advocate-General in Madras in regard to this matter. I learnt from him and Govindaraghavier that G. Subramania never had any intention or desire to be a martyr, and that he would have shut up if warned!! He seems even a greater skunk than I gave him credit for. However as things have turned out I approve of all the action taken.

G. S[TOKES]—1-9-08.

To Chief Secretary—

Under Chief Secretary's instructions I submit below an order authorizing the institution of proceedings under section 108, Criminal Procedure Code, against Subramania Aiyar. It seems unnecessary to specify any articles in it as the evidence required under the section is general.

C.A.S.—2-9-08.

The draft will, I think, meet the case. Fair it and I will sign it and let it go by to-morrow morning's post to the Commissioner of Police with a proceedings.

Read the telegram—the following order will be sent to the Commissioner, etc.

M.H.—2-9-08.

XI

[G.O., No. 1212, Judicial, dated 2nd September 1908.]

Demi-official—from the Hon'ble Mr. P. S. SIVASWAMI AIYAR, C.I.E., Advocate-General.
To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
Dated—the 7th September 1908.

I send you herewith the copy of the Government order sent to me *in re* G. Subramania Aiyar's prosecution with the acceptance in writing, by Subramania Aiyar, of the terms offered by the Government. As the bond given by him before the Presidency Magistrate relates only

to the second condition imposed by the Government, and as I understand that no separate undertaking has been taken from him in regard to the first condition, the paper now sent by me may be filed either in the Government office or in the Police Commissioner's office.

His acceptance of the terms is sufficient and no separate formal undertaking is necessary.

Put with the confidential * file.

M.H.

* Filed in original of Government Order.

Please send urgent telegram to Mr. Wilkieson, Commissioner of Police, Madras :—

Formal sanction should have reached you this morning. Lose no time in getting the Crown Prosecutor to take action 108, Code of Criminal Procedure.

M.H.

[Issued as telegram No. 837, dated 4th September 1908.]

Telegram—from the Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—the 5th September 1908.

Complaint lodged yesterday. Case will be heard to-day.

To Under Secretary—

For orders whether a report should go to the Government of India on this matter.

H.T.—7-9-08.

Yes: draft please.

C.A.S.—8-9-08.

To Under Secretary—

The previous papers on the subject are not in the office. A draft telegram to the Government of India is submitted.

H.T.—8-9-08.

To Chief Secretary

C.A.S.—8-9-08.

Issue.

M.H.—8-9-08.

[Issued as telegram No. 868, dated 9th September 1908—**XII.**]

[X.]
10,000—17-12-06.

Copy

GOVERNMENT OF MADRAS

26 26

15/1212

Received ....190 , Registered ....190 .

Abstract.

JUDICIAL DEPARTMENT.

G.O., No. , dated September 1908.

ENCLOSURES.
No. ....

READ the following paper :—

Telegram - from the Commissioner of Police, Madras,
To - the Chief Secretary to the Government of Madras,
Dated - the 1st September 1908.

Your D.O. dated 31st August. Crown Prosecutor thinks formal sanction necessary under section 108. Please forward.

DESPATCHED

ORDER:- No. 1212 dated 2 ^{40} September 1908.

The following order will be despatched to the Commissioner of Police who will give the required instructions to the Crown Prosecutor:-

Under the provisions of Section 108 of the Code of Criminal Procedure the Madras Government authorize the institution of proceedings under the said section against G. Subramania Aiyar as Editor, Printer, publisher and

Proprietor

Proprietor of the Tamil Newspaper called the "Swadesamitran" in respect of certain articles published therein between January 1st, 1908 and June 30th, 1908, in that by the publication of these articles the said G. Subramania Aiyar has disseminated or attempted to disseminate seditious matter punishable under Section 124 A of the Indian Penal Code, and matter punishable under Section 153 A of the Indian Penal Code.

2. Inspector S. Bavanandam pillai of the Intelligence Dept, Madras City, is directed to lay information before the Chief Presidency Magistrate, Madras, under Section 108 of the Code of Criminal Procedure in respect of the said articles against the said G. Subramania Aiyar.

(True Extract)

(Sd) M. Hammick
Chief Secretary.

To the Commissioner of Police,
Copy to the Crown Prosecutor.

17/1212 49 86/105

Don't print

45

84

C. INDIAN TELEGRAPHS. No. of Telegram

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay. Rs. As. Office Stamp.

OOTACAMUND

Handed in at	Office of Origin.	Hour.	Minute.	Service Instructions.
	Madras. Egmore 10/46			

TO Madras.
Ootacamund.

Yours d. o. dated 31st august Crown prosecutor thinks formal sanction necessary under section 108 please forward. = Policegrm.

N.B.—The name of the Sender, if telegraphed, is written after the text.

Judicial Dep.

Order No. dated
Mis

19/12-12

107

47P

Under the provisions of Section 108 of the Code of Criminal Procedure the Madras Government authorise the institution of proceedings under the said section against G. Subramania Aiyar as Editor, Printer, Publisher and Proprietor of the Tamil newspaper called the "Swadesamitran" in respect of certain articles published therein between January 1st 1908 and June 30th 1908, in that by the publication of ~~these~~ these articles the said G. Subramania Aiyar has disseminated or attempted to disseminate seditious matter punishable under S. 124 A of the Indian Penal Code, and matter punishable under S. 153 A of the Indian Penal Code.

2. Inspector S. Baranandam Pillai of the Intelligence Department, Madras City, is directed to lay ~~without delay~~ information before the Chief Presidency Magte Madras under S. 108 of the Code of Criminal

52 108 48P

$\frac{2.0}{1212}$

Procedure in respect of the said articles against the said G. Subramania Aiyar.

Chd 2.9.8.

[illegible] 2.IX.88

The Commr. of Police

Copy to Crown Prosecutor.

2/9/88 [illegible]

XII

21/1222 53 12/109

Public Dept.

49P

Telegram

To the Govt of India
Home Dept

P.ps are now with H. ell (Hon. ble Forbes)

Desp 9/9/8

868 x Reference [my] telegram informing [the] G. of I. that Governor in Council has authorised the institution of proceedings under Section 124 A & 153 A of the I.P.C. against G. Subramania Aiyar as the Editor Printer, Publisher and Proprietor of the Tamil Newspaper [called] "Swadesamitran". Governor in Council has now withdrawn proceedings under Secs 124 A & 153 A of the I.P.C. & has taken action under Sec 108 [of the] Code of Criminal Procedure in consideration health state of Subramania Aiyar who has been bound over under that Section.

3/5 5.9.08

COS 5.9.8.

[illegible] 14.08

8

[Y/7]

PRESS SLIP.

1 Stet

~~ORDINARY.~~ PREFERENCE. URGENT (a).

General DEPARTMENT. 22/12/..

Current No.........., dated.....................................190 .

G.O., No. 1212, dated 2 . 9 ....190 8

Number of MS. pages sent { Correspondence (b) 53
Notes (b1) 61

Brief subject .... G. Subramania Ayyar

Number (c) of copies required when struck off (*not including copies for volumes and editors' table which are retained in the Press*).	Complete Correspondence and orders.	Notes.
FOR RECORD.*		
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Total	25	17

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(b) Each letter, memorandum, or order, or set of orders, in the file of correspondence should be headed in succession with the Roman numeral I, II, III, etc., the number being written in red ink or blue chalk above the item. The particular papers to be printed in the special issue-copies should be indicated by the Roman numeral (I, II, etc.) by which that item has been headed in the correspondence file. All matter, including marginal remarks or references, to be printed should be written in ink and matter which should not be printed should be encircled. Initials and signatures that are not quite legible should be re-written distinctly.

(b1) For rules regarding printing of notes, see rule 248 of the Office Manual.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

(d) In the absence of special instructions to the Press to keep matter standing for a specified period, ordinary papers of 8 pages and under will be kept standing for *one* week, and larger papers for *two* weeks only. *The type of notes and of all confidential papers is distributed immediately after striking.*

(e) This slip, properly and completely filled in, should accompany every paper sent to Press; it will be returned by the Press when proofs are furnished; it should be sent to the Press when a call is made for revised proofs or when a corrected proof is sent for striking. When finally returned by Press it should be filed with the original order or letter.

INSTRUCTIONS FOR THE PRESS.

(a) If, in the opinion of the Superintendent of the Press, a paper has been marked urgent unnecessarily, he should send the Press slip to the Registrar with a remark to that effect.

(b) Unless a note to the contrary is made against the matter, pencil entries should not be printed. The Superintendent of the Press may bring to the notice of the Registrar any instance of incomplete or careless editing.

(c) Signature copies of letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

(d) This slip should be returned by the Press to the Secretariat when proofs are furnished; it will be sent back to the Press when proofs are returned corrected and should be finally returned to the Secretariat when struck-off copies are supplied.

C. M. SCHMIDT,
Registrar,
Chief Secretariat.

[P.T.O.

TO PRESS, MADRAS, ~~OOTY~~.

A	B	C
...ase send proof in duplicate. The papers have been carefully edited.	Proof returned corrected. Please strike off and send number of copies as indicated.	As the matter is in clear manuscript and has been carefully edited, (b) proof need not be sent. Please print and supply number of copies as indicated.
	Type may be released ~~after usual interval~~ at once.	Type may be released after usual interval.
N Theadore ...Referencer.	N Theadore ...Referencer.	......Ref...
11/12/08	5/1/09	
......Supdt.	......Supdt.	......

SPECIAL INSTRUCTIONS.

Press
Please [illegible]
Urgent

N.T.
[illegible]

TO BE FILLED IN BY THE PRESS.

Diary.	Initials of Press official.
Received in Press on 12/12/08	S.D.C.
First proof furnished on 18/12/08	S.D.C.
Call for revised proof received on 5/1/09	S.D.C.
Revised proof furnished on	
Corrected proof received for striking on 5/1/09	S.D.C.
Final copies supplied on 11/1/09	S.D.C.

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23/1212

Government of Madras.

JUDICIAL DEPARTMENT.

STRICTLY CONFIDENTIAL.

Recd.	} 1908.	Enclosures	
Regd.		Spare copies	

G O., No. 1212, 2nd September 1908.

Mtry: G. Subramania Aiyar. Accd.

Institution of proceedings under the sec 108 of the C.P.C. against — Editor of the "Swadesamitran"

24/1212

STRICTLY CONFIDENTIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following papers :—

I

Letter—from H. F. WILKIESON, Esq., Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—the 24th June 1908.
No.—563 (*b*)—I.D.

I have the honour to forward the attached English translation of a large number of extracts from the *Swadesamitran*, which have been declared to be objectionable by the Advocate-General, who is of opinion that the editor can be made liable under sections 124-A and 153-A of the Indian Penal Code.

The editor, proprietor, printer and publisher of this Tamil journal is G. Subramania Aiyar, B.A.

As the order of Government authorising the institution of proceedings against the editor is a condition precedent to any charge under sections 124-A and 153-A of the Indian Penal Code, I have the honour to request that the Government may be pleased to issue an order under section 196 of the Code of Criminal Procedure for the prosecution of G. Subramania Aiyar, B.A.

II

Official Memorandum No. 89—1, Judicial, dated 30th June 1908.

With reference to his letter 563 (*b*)/I.D. of the 24th June, the Commissioner of Police is requested to scrutinize without delay the issues of the *Swadesamitran* published since the 11th May 1908, and to forward such portions of them as appear to constitute offences under sections 123-A and 154-A of the Indian Penal Code to the Advocate-General for favour of opinion whether those responsible for their publication could be prosecuted under those sections with a reasonable chance of success.

2. The Advocate-General has been requested to forward his opinion direct to Government.

J. N. ATKINSON,
Acting Chief Secretary.

To the Commissioner of Police
(through the Inspector-General of Police).

III

Official Memorandum No. 89—1, Judicial, dated 30th June 1908.

The Honourable the Advocate-General is informed that the Commissioner of Police has been directed to forward to him extracts from the *Swadesamitran*,

published since the 11th May 1908 for favour of opinion as to whether a prosecution could be instituted under sections 124-A and 153-A of the Indian Penal Code, with a reasonable chance of success against those responsible for their publication.

2. The Honourable the Advocate-General is requested to forward his opinion direct to Government at a very early date.

J. N. ATKINSON,
Acting Chief Secretary.

To the Honourable the Advocate-General.

IV

Letter—from the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.
To—the Chief Secretary to Government.
Dated—25th July 1908.

[Judicial Memoranda No. 89—1 and 90—1, dated 30th June 1908.]

The extracts from the *Swadesamitran* and from *India*, referred to in the above memoranda, were furnished to me at Madras on the 16th instant, with a covering letter of the 15th instant from the Commissioner of Police. As I have been engaged in the Peranai appeal and as there were thirteen issues of the *Swadesamitran* and eight issues of *India* to be looked into, I was not able to go through the papers till last night.

I will make my remarks on the various issues of the *Swadesamitran seriatim* :—

(1) *15th May* 1908. The article on "The conduct of our ancestors" is not open to objection. It is a strong condemnation of the bomb outrages, and though there is a sentence about "English beasts" thirsting for the blood of Indians and seeking to implicate the educated classes and respectable men in connection with the outrages, the object of the writer is not to create any class-hatred but merely to answer the charges and aspersions made by certain Anglo-Indians against the educated and respectable classes.

(2) *16th May* 1908—"*Who is responsible?*"—In this article the writer complains that the Anglo-Indian papers do not take the trouble to inquire into the causes which have produced the extremists and points out that repressive measures have increased in the country since the time of Lord Curzon, that public opinion has been slighted, and that in consequence a feeling of resentment has been created in the minds of the people. The writer states that while the Indians agree with Englishmen in considering that crime must be put down they differ from them in thinking that the causes of unrest must be removed by conciliatory measures and not by a repressive policy. I do not think that this article is objectionable.

(3) *20th May* 1908—"*One meal in two days*".—In this article the writer suggests that the British Government is conducted on the principle of sweeping away everything from the country, with a regard for the gain of Englishmen and with no regard for the future welfare of the country. He refers to the draining of the wealth of the country by Europeans. He states also that Europeans are not content with robbing the country but are given to beating and abusing the Indians and tendering evil advice to Government. This article is objectionable and will fall under section 124-A.

(4) *21st May* 1908—"*The flogging of agitators by sweepers*".—The article appears to be a reply to a suggestion in the *Englishman* of Calcutta that Indian agitators should be ordered to be flogged by sweepers. It points out that articles of this kind are obnoxious to the law on account of their tendency to produce enmity between Englishmen and Indians. The writer asks why no proceedings are taken against papers like the *Englishman* and regrets that even-handed justice has left the country. If there was an article in the *Englishman* of the kind alleged, it might have given provocation to the writer of this article. The

reference to the slaughter of Englishmen in the mutiny appears to be made by way of retort to the *Englishman* rather than with any object of exciting disaffection or class hatred.

(5) 26*th May* 1908—"*Future troubles and British rule*".—In this article it is stated that famines in the country are due to the unjust rule of Englishmen, that famines were unknown before the British rule, and that having in their greed imposed heavy taxes, incurred extravagant expenditure, killed industries and imported famine and plague. Englishmen labour to relieve the country from suffering during the famines which they have themselves imported. The article seems to be a reply to some article in the *Times* on "the White man's burden." This article will fall under section 124-A.

(6) 3*rd June* 1908—"*American sympathy for India*".—In this article it is stated that the policy of England in India is that of killing the goose that lays the golden eggs and that an impoverished India will do no good to any body.

"*Who is the bad Magistrate?*"—In this article the writer suggests that the riots at Tinnevelly and the shooting of certain inhabitants there, the Cocanada riots, the disturbance among the Rajahmundry students and the death of a woman at Salem mauled by a cheetah kept by the Collector were due to the bad officials concerned and regrets that Magistrates who are wanting in ability and good qualities and cause troubles, riots and loss of life are rewarded by the Government instead of being punished and that the Government is being conducted without any regard to the welfarel of the people and the true sources of strength of the State and with the view of supporting members of the ruling race at any cost. It states that the belief once entertained by the people that Englishmen were heaven-born and immaculate has now disappeared and that foreigners are not capable of governing India. It winds up with the query whether Englishmen will admit that they are not fit to govern England and that the Russians and the Japanese alone are capable of ruling England.

"*Drunkenness no crime.*"—This paragraph refers to the acquittal on the ground of drunkenness of a white soldier who had killed a cartman. It dwells upon the injustice of the decision and asks how Indians can be expected to be loyal when such injustice is tolerated.

5*th June* 1908—"*The virulence of Anglo-Indian papers.*"—This a reply to an article in the *Madras Times* which contained a suggestion that King Edward's visit to the Czar was for the purpose of negotiating a sale of India to him. The insinuation in the *Times* that India will suffer by the bargain is met with the statement that England will suffer equally by the transaction.

"*The suggestion of the 'Madras Times.'*"—In the same issue is another article under the above heading. The writer pursues the same topic and states that for various reasons Indians are not afraid of Russian rule. Russia also being an agricultural country, there will be no exports of raw products and no drain of the material resources of the country; nor need the people have any fear of losing liberty of speech or liberty of the press. The writer refers to an article in the *Modern Review* on "If Russia should rule India" and contents himself with saying that the superiority of Russian to English rule is pointed out in that article.

I do not know whether there was any such silly suggestion in the *Madras Times*, and I am unable to stay how far the article was provoked by the effusion of the *Times*. Though the offensive utterances of some of the Anglo-Indian papers may provoke a retaliation and afford some excuse, I do not think that the article in question is justifiable.

30*th May* 1908—"*America and India.*"—After referring to the anxious thought bestowed by President Roosevelt upon the preservation of the material resources of the United States, the writer says that since the advent of the British, the resources of the country are being destroyed and other evils have arisen and that no Viceroy or British Minister betrays any solicitude for the welfare of the country like President Roosevelt. The only anxiety shown by British statesmen is how to carry away the wealth of India in as short a time as possible during their tenure of the country and not how to utilise the sources of national wealth for the benefit of the country.

"*Assault for omitting to use the word 'Sir.'*"—The writer states that the complaint of ill-treatment of Indians by Europeans is attributed by Anglo-Indian papers to the race-hatred of Indian newspapers; but he contends that it is based upon fact and in support of this statement dwells on a case of ill-treatment in Ceylon of an Indian booking clerk by a Military officer for not using the word 'Sir.'

6th June 1908—"*Ignorance of Englishmen.*"—The writer states that the British rule in India is not characterised by justice or kindness, and that justice and kindness without a recognition of equality are not sufficient to make the Government popular.

2nd June 1908—"*The meekness of Indians and the severity of Englishmen.*"—This article is a reply to an article of Sir Charles Elliott in an English magazine which complained that there were numerous cases of assaults of Englishmen by Indians which went without punishment and recommended the infliction of severe punishments and the adoption of repressive measures. The writer points out that the statements of Sir Charles Elliott are unfounded. The writer says that however much the Indians may be downtrodden, they will find some providential way out of their troubles and that it cannot be assumed that Indians will continue to be helpless. He asks whether 30 crores of people will continue to bear their sufferings and be content with slavery.

The writer puts his faith in providence and destiny and does not make any covert incitement to insurrection.

16th June 1908—"*Why should the British statesmen speak thus?*"—In this article the writer refers to some remarks of Lord Macaulay and to the Queen's Proclamation and states that since 1857 the Government of the country, as pointed out by Lord Curzon, has been conducted with a sole eye to the interests of Great Britain. The writer thinks that the influence of the democracy is one of the causes which accounts for this state of things.

18th June 1908—"*The executive and the judiciary.*"—The writer dwells upon the growing tendency to increase the powers of the executive and curtail the jurisdiction of the courts, and points out that the necessary result of this tendency is to curtail the liberty of the subject and that the intention of the present administration is to make the people the slaves of the police and the magistrates.

25th June 1908—"*Can you pass close by.*"—This paragraph is with reference to an incident in Allahabad. A native peon is said to have been arrested for passing close to a young European lady. The writer contrasts this with the cases of Europeans who ravish Indian women and are left off scotfree and reflects upon the alleged impartiality of officials in the country.

I think the articles of the 20th May on "One meal in two days," of the 26th May on "Future troubles and British rule," of the 5th June on "The suggestion of the Madras Times," of the 30th May on "America and India," and of the 6th June on "The ignorance of Englishmen" will fall under section 124-A. The articles on "Bad magistrates" and "Can you pass close by" may be used by way of evidence.

I have read the issues of *India* sent to me. I think that the articles of the 2nd May on "Stories from the Mahabharata," of the 23rd May on "The crusade against the newspapers by the Bombay Government," and on "One of several robberies," of the 6th June on "The Economic Swadesi" and of the 27th June on "Why lose time" will fall under section 124-A and the article of the 2nd May on "Do you also seek the way to ruin" will fall under 153-A.

The other articles may be used by way of evidence.

The Commissioner of Police desires that the original papers sent herewith may be returned to him with the orders of Government.

V

G.O., No. 1102, Judicial, dated 11th August 1908.

Under the provisions of section 196 of the Code of Criminal Procedure the Madras Government authorize the institution of criminal proceedings against G. Subramania Aiyar, as editor, proprietor, printer and publisher of the Tamil newspaper called the *Swadesamitran* under sections 124-A, 153-A and 505 of the Indian Penal Code in respect of the following articles published in the said *Swadesamitran* Newspaper on the dates noted against each article, namely :—

SWADESAMITRAN.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
13th January 1908. ..	The Indians in South Africa. (Paragraph 15, pages 36 and 37, of Newspaper Report No. 3, dated 18th January 1908.)	Sufferings of our brethren in Transvaal.
23rd " " ..	Indian coolies beaten to death by the whites. (Paragraph 13, page 46, of N.P.R. No. 4, dated 25th January 1908.)	Indian coolies beaten to death by the whites.
28th " " ..	The Police and the Judiciary. (Paragraph 5, page 50, of N P R. No. 5, dated 1st February 1908.)	The Police authorities and the Judges.
27th " " ..	The Government and the Press in India (Paragraph 7, page 50, of N.P.R. No. 5, dated 1st February 1908.)	The Government and the Newspapers.
31st " " ..	(Paragraph 16, page 54, of N.P.R. No. 5, dated 1st February 1908.)	Opening of the Parliament.
30th " " ..	The officials and the people. (Paragraph 17, page 55, of N.P.R. No. 5, dated 1st February 1908).	The Decentralization Commission.
1st February " ..	Moulvi Leakat Hussain. (Paragraph 4, page 59, of N.P.R. No. 6, dated 8th February 1908.)	Sri Leakat Hussain.
7th " " ..	The Government Service. (Paragraph [illegible], pages 73 and 74, of N.P.R. No. 7, dated 15th February 1908.)	Patriotism catechism. (1) Are all foreigners in Government service traitors to our country. (2) Are all the Natives in Government service traitors to their mother land. (3) Can patriots take up Government service. (4) Can the worshippers of the country enter Government service.
7th " " ..	Famine in Northern India. (Paragraph 28, page 75, of N P.R. No. 7, dated 15th February 1908.)	Mr. John Morley's mercy for living beings.
13th " " ..	Scientific and Industrial Education. (Paragraph 4, page 98, of N.P.R. No. 9, dated 29th February 1908.)	Indian students in Foreign countries.
11th " " ..	The English policy of "Divide and rule." (Paragraph 15, page 105, of N.P.R. No. 9, dated 29th February 1908.)	Congress.
13th " " ..	*Swaraj* for the Indians. (Paragraph 17, page 105, of N.P.R. No. 9, dated 29th February 1908.)	*Swadeshi* preaching in Tuticorin.
14th " " ..	India and the Anglo-Indians. (Paragraph 18, page 105, of N.P.R. No. 9, dated 29th February 1908.)	The two deceased Anglo-Indians.
20th " " ..	(Paragraph 14, page 116, of N.P.R. No. 10, dated 7th March 1908.)	Zekha Khel Expedition.
17th " " ..	The Government and the *Swadeshi* Industries. (Paragraph 16, page 117, of N.P.R. No. 10, dated 7th March 1908.)	Bengal Presidency Industrial Conference.

SWADESAMITRAN—cont.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
20th February 1908 ..	The present condition of India. (Paragraph 29, page 122, of N.P.R. No. 10, dated 7th March 1908.)	India and Andrew Carnegie
22nd " " ..	The Arts College in Travancore. (Paragraph 23, page 137, of N.P.R. No. 11, dated 14th March 1908.)	Travancore a warning.
22nd " " ..	Boycott the foreign circusses. (Paragraph 32, page 139, of N.P.R. No. 11, dated 14th March 1908.)	Do not witness the circus of the whites. Do not pay circus tax along with the Government tax.
22nd " " ..	Boycott everything foreign. (Paragraph 33, page 139, of N.P.R. No. 11, dated 14th March 1908.)	Attempt at Boycott at Transvaal.
27th " " ..	The students and their Feringhee professors. (Paragraph 6, pages 155 and 156, of N.P.R. No. 12, dated 21st March 1908.)	Have you not still acquired sense.
29th " " ..	Tuticorin and its officials. (Paragraph 12, pages 158 and 159, of N.P.R. No. 12, dated 21st March 1908.)	Events at Tuticorin.
27th " " ..	The strike at the Coral mills in Tuticorin. (Paragraph 18, page 160, of N.P.R. No. 12, dated 21st March 1908).	The strike at the Coral mills in Tuticorin.
5th March " ..	Swaraj is nothing new. (Paragraph 22, page 175, of N.P.R. No. 13, dated 28th March 1908.)	A swadeshi lecture by Sivangana Yogi at Kumbeswara Swami temple in Kumbakonam.
7th " " ..	Our workmen. (Paragraph 29, pages 177and 178, of N.P.R. No. 13, dated 28th March 1908.)	Our workmen.
9th " " ..	The Zekha Khel expedition. (Paragraph 18, pages 198 and 199, of N.P.R. No. 14, dated 4th April 1908.)	Waste of twelve lakhs of rupees.
10th " " ..	Tuticorin and its officials. (Paragraph 19, page 199, of N.P.R. No. 5, dated 4th April 1908.)	Tuticorin news.
14th " " ..	The authorities and our patriots. (Paragraph 22, page 201, of N.P.R. No. 14, dated 4th April 1908.)	What injustice.
16th " " ..	Pindi D as in Jail. (Paragraph 23, pages 201 and 202, of N.P.R. No. 14, dated 4th April 1908).	Sufferings of Lala Pindi Das.
17th " " ..	The situation at Tinnevelly. (Paragraph 24, page 202, of N.P.R. No. 14, dated 4th April 1908.)	Tinnevelly disturbances.
11th " " ..	The civilization of the whites. (Paragraph 38, page 207, of N.P.R. No. 14, dated 4th April 1908.)	Natal. The zenith of the civilization of the whites.
11th " " ..	The worship of the whites. (Paragraph 39, page 207, of N.P.R. No. 14, dated 4th April 1908.)	The worship of the whites.
18th " " ..	The situation in Tinnevelly and Tuticorin. (Paragraph 6, pages 212 and 213, of N.P.R. No. 15, dated 11th April 1908.)	The disturbances in Tinnevelly.

"*Swadesamitran*"—*con*.

Date of issue.		Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
19th March 1908	..	The Indian Famine Fund. (Paragraph 7, pages 213 and 214, of N.P.R. No. 15, dated 11th April 1908.)	The Viceroy on Famine.
20th " "	..	Mr. Wynch as a Magistrate. (Paragraph 8, page 214, of N.P.R. No. 15, dated 11th April 1908.)	Punitive Police in Tinnevelly district.
21st " "	..	An additional Sub-Collector for Tinnevelly. (Paragraph 11, page 214 of N.P.R. No. 15, dated 11th April 1908.)	An additional Sub-Collector for Tuticorin.
20th " "	..	The Tinnevelly deputation. (Paragraph 18, pages 216 and 217, of N.P.R. No. 15, dated 11th April 1908.)	Punitive Police in Tinnevelly district.
25th " "	..	The case against Mr. Chidambaram Pillai. (Paragraph 9, page 223, of N.P.R. No. 16, dated 18th April 1908.)	
23rd " "	..	The situation in Tinnevelly. (Paragraph 15, page 225, of N.P.R. No. 16, dated 18th April 1908.)	The oppression of officials in Tuticorin.
24th " "	..	(Paragraph 15, page 225, of N.P.R. No. 16, dated 18th April 1908.)	Never mind who is concerned.
27th " "	..	Regime of Mr. Morley. (Paragraph 16, pages 226 and 227, of N.P.R. No. 16, dated 18th April 1908.)	Sedition case against Chidambaram Pillai.
25th " "	..	The whites and the Indians. (Paragraph 29, page 230 of N.P.R. No. 16, dated 18th April 1908.)	
26th " "	..	The Indians and the British trade. (Paragraph 30, page 230, of N.P.R. No. 16, dated 18th April 1908.)	Set their eyes on Swadeshi Company.
31st " "	..	The charges against Major Elliot. (Paragraph 10, page 238, of N.P.R. No. 17, dated 25th April 1908.)	Government Ophthalmic Hospital—Major Elliot.
30th " "	..	Atrocities in and around Peshawar. (Paragragh 25, pages 242 and 243, of N.P.R. No. 17, dated 25th April 1908.)	Cruelties in Peshawar.
7th April "	..	Municipal administration on India. (Paragraph 11, pages 253 and 254, of N.P.R. No. 18, dated 2nd May 1908.)	The closure of the butcher's shops in Lucknow.
6th " "	..	The Tinnevelly Deputation. (Paragraph 18, page 266, of N.P.R., No. 18, dated 2nd May 1908.)	The Governor's remarks about the Tinnevelly disturbances.
4th " "	..	A rebuff to Moderates. (Paragraph 32, pages 261 and 262, of N.P.R. No. 18, dated 2nd May 1908.)	A whipping to the moderates.
4th " "	..	The B.I.S.N. Company *versus* the *Swadeshi* Steam Navigation Company. (Paragraph 34, page 263, of N.P.R. No. 18, dated 2nd May 1908.)	The Tuticorin *Swadeshi* Steam Navigation Company and the officials.
9th " "	..	Reservation of Forests. (Paragraph 18, page 28, of N.P.R. No. 19, dated 9th May 1908.)	Troubles caused by the Forest Department.
8th " "	..	The Governor's reply to the Tinnevelly Deputation. (Paragraph 21, page 282, of N.P.R. No. 19, dated 9th May 1908.)	The *Amirta Bazaar Patrika* writes.

Swadesamitran—cont.

Date of issue.		Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
18th April 1908	..	The District Magistrate must be an Indian. (Paragraph 29, pages and 285/286, of N.P.R. No. 19, dated 9th May 1908.)	If the District Magistrate is an Indian.
9th " "	..	The whites and the Indians. (Paragraph 40, page 289, of N.P.R. No. 19, dated 9th May 1908.)	What injustice?
15th " "	..	The present state of Tinnevelly. (Paragraph 42, pages 290 and 291, of N.P.R. No. 19, dated 9th May 1908.)	The Tinnevelly trial.
21st " "	..	Justice is not for the Indians. (Paragraph 16, pages 304 and 305, of N.P.R. No. 20, dated 16th May 1908.)	If the mother-in-law breaks it is a mud vessel and if the daughter-in-law breaks it is a gold vessel.
27th " "	..	The whites and the Indians. (Paragraph 30, page 310, of N.P.R. No. 20, dated 16th May 1908.)	Who is superior? Is an Indian or a European dog, surely the dog.
2nd May "	..	Is there so much difference between a white and a black skin.? (Paragraph 3, page 314, of N.P.R. No. 21, dated 23rd May 1908.)	A case of spitting on a white woman.
2nd " "	..	The Europeans and the Indians in service. (Paragraph 14, page 317, of N.P.R. No. 21, dated 23rd May 1908.)	Mr. Morley and the appointment to high offices.
5th " "	..	The Bomb outrage in Bengal. (Paragraph 15, pages 318 and 319, of N.P.R. No. 21, dated 23rd May 1908.)	The Bomb outrages in Bengal.
28th April "	..	The *Vande Mataram* Namavali. (Paragraph 31, page 323, of N.P.R. No. 21, dated 23rd May 1908.)	The *Vande Mataram* Namavali in Triplicane festival.
1st May "	..	Never pocket the insult of a white. (Paragraph 33, page 324, of N.P.R. No. 21, dated 23rd May 1908.)	An affray.
11th " "	..	The Bomb outrages in Calcutta. (Paragraph 2, page 329, of N.P.R. No. 22, dated 30th May 1908.)	What are the other causes for the Bomb outrage?
9th " "	..	Difference between a Democratic and Autocratic Government. (Paragraph 9, page 331, of N.P.R. No. 22, dated 30th May 1908.)	Government pension to aged men in England.
11th " "	..	Capability for self-protection is a *sine quâ non* now. (Paragraph 11, page 332, of N.P.R. No. 23, dated 30th May 1908.)	Self-protection.
15th " "	..	The Bomb outrage at Calcutta. (Paragraph 9, page 339, of N.P.R. No. 23, dated 6th June 1908.)	The conduct of our ancestors.
16th " "	..	(Paragraph 9, page 339, of N.P.R. No. 23, dated 6th June 1908.)	Who is responsible?
20th " "	..	The Englishmen and the Indians. (Paragraph 13, pages 340 and 341, of N.P.R. No. 23, dated 6th June 1908.)	One meal in two days.
21st " "	..	Whipping for the Indian agitators. (Paragraph 14, page 341, of N.P.R. No. 23, dated 6th June 1908.)	The flogging of agitators by sweepers.
26th " "	..	The *Times* on the present situation. (Paragraph 30, page 349, of N. P. R. No. 23, dated 6th June 1908.)	Future troubles and British rule.

Swadesamitran—cont.

Date of issue.	Heading as given in the Report on Vernacular and Anglo-Vernacular Newspapers.	Heading given in the Newspaper itself.
3rd June 1908 ..	*Nil*	American sympathy for India.
3rd " " ..	The *Spectator* on the recent outrages. (Paragraph 20, page 369, of N.P.R. No. 24, dated 13th June 1908.)	Who is the bad magistrate.
3rd " " ..	Justice and the Indians. (Paragraph 13, page 367, of N.P.R. No. 24, dated 13th June 1908.)	Drunkenness no crime.
5th " " ..	What if India is sold to Russia? (Paragraph 62, page 383, of N.P.R. No. 24, dated 13th June 1908.)	The virulence of Anglo-Indian papers.
5th " " ..	Do. do. ..	The suggestion of the *Madras Times*.
30th May " ..	India and her natural products. (Paragraph 57, page 381 and 382, of N.P.R. No. 24, dated 13th June 1908.)	America and India.
30th " " ..	The whites and the Indians. (Paragraph 19, page 368, of N.P.R. No. 24, dated 13th June 1908.)	Assault for omitting to use the word 'Sir'.
6th June " ..	It is not justice alone but equality and liberty too that the people require. (Paragraph 27, page 371, of N.P.R. No. 24, dated 13th June 1908.)	Ignorance of Englishmen.
2nd " " ..	The Indians cannot be slaves for ever. (Paragraph 58, page 382, of N.P.R. No. 24, dated 13th June 1908.)	The meekness of Indians and the severity of Englishmen.
16th " " ..	The Government is carried on with a purely selfish motives. (Paragraph 14, page 395, of N.P.R. No. 25, dated 20th June 1908.)	Why should the British statesmen speak thus?
18th " " ..	The Executive and Judicial officers. (Paragraph 17, page 396, of N.P.R. No. 25, dated 20th June 1908.)	The Executive and the Judiciary.
25th " " ..	The partiality of the officials. (Paragraph 20, page 420, of N.P.R. No. 26, dated 27th June 1908.)	Can you pass close by.

2. Inspector S. Bavanandan Pillai of the Intelligence Department, Madras City, is directed to prefer without delay complaints of offences under the above sections of the Indian Penal Code before the Chief Presidency Magistrate against the abovesaid G. Subramania Aiyar.

(True Extract.)

M. HAMMICK,
Chief Secretary.

The Commissioner of Police, through the Inspector-General of Police.
Copy to the Crown Prosecutor, Madras.

VI

Telegram—from the Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 24th August 1908.
No.—808.

Governor in Council has authorised the institution of proceedings under sections 124-A, 153-A, and 505 of the Indian Penal Code against G. Subramania Aiyar, the editor, proprietor, printer and publisher of the Tamil newspaper called *Swadesamitran*, in respect of articles published in the newspaper since January last, and against M. Srinivasa Aiyangar, the editor, proprietor, printer and publisher of the Tamil newspaper called *India*, in respect of articles published in the newspaper since February last. Letter follows.

VII

Letter—from the Hon'ble Mr. M. Hammick, c.i.e., c.s.i., I.C.S., Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 25th August 1908.
No.—115 (Confdl.).

In continuation of my telegram No. 868, dated 24th August 1908, I am directed to forward, for the information of the Government of India, lists containing the names and dates of the articles, with references to the extracts published in the Weekly Report on Vernacular and Anglo-Vernacular Newspapers, in respect of which sanctions to prosecute the editors of the Tamil newspapers *Swadesamitran* and *India* were accorded by His Excellency the Governor in Council.

VIII

G.O., No. 1182-A, Judicial, dated 26th August 1908.

The attention of the Government has been called to the medical certificates which have been submitted to the ~~First~~ Presidency Magistrate in connection with the criminal proceedings instituted against Mr. G. Subramania Aiyar.

In view of the serious condition of Mr. G. Subramania Aiyar's health, the Government are prepared to withdraw proceedings under sections 124-A and 153-A of the Indian Penal Code, provided—

(1) Mr. G. Subramania Aiyar will give a personal undertaking to refrain in future from any public speaking or writing or any action which may tend to excite class-hatred or promote sedition or disloyalty to the Government.

(2) Mr. G. Subramania Aiyar will consent to be bound over in accordance with the provisions of section 108 of the Criminal Procedure Code.

IX

Declaration signed by Mr. G. Subramania Aiyar.

I have read the above Government Order and I am willing to abide by the condition offered.

28*th August* 1908. G. Subramania Aiyar.

X

G.O., No. 1198-A, Judicial, dated 31st August 1908.

The Commissioner of Police, Madras, is requested to instruct the Crown Prosecutor without delay to take proceedings under section 108 of the Criminal Procedure Code, before the ~~First~~ Presidency Magistrate, against Mr. G. Subramania Aiyar for disseminating in writing seditious matter punishable under section 124-A, Indian Penal Code, and also matter the publication of which is punishable under section 153-A of the Indian Penal Code, with regard to the articles published in the *Swadesamitran* selecting four or five of those articles which are most incontravertibly seditious or likely to promote racial enmity or hatred.

If Mr. G. Subramania Aiyar, after formal evidence of the publication of the articles referred to is prepared to be bound over and is ready to give the securities required by the Magistrate, the Crown Prosecutor should ask the Magistrate to order Mr. G. Subramania Aiyar to enter into a bond in the sum of Rs. 5,000, with two sureties in Rs. 2,500 each.

After the proceedings against Mr. G. Subramania Aiyar have been completed and Mr. G. Subramania Aiyar has entered into a bond on the above terms, the Crown Prosecutor should withdraw the charges now pending against Mr. G. Subramania Aiyar in the Police Court and ask for his release.

XI

Order—No. 1212, Judicial, dated 2nd September 1908.

The following order will be despatched to the Commissioner of Police who will give the required instructions to the Crown Prosecutor :—

Under the provisions of section 108 of the Code of Criminal Procedure the Madras Government authorize the institution of proceedings under the said section against G. Subramania Aiyar as editor, printer, publisher and proprietor of the Tamil newspaper called the *Swadesamitran* in respect of certain articles published therein between January 1st, 1908, and June 30th, 1908, in that by the publication of these articles the said G. Subramania Aiyar has disseminated or attempted to disseminate seditious matter punishable under section 124-A of the Indian Penal Code and matter punishable under section 153-A of the Indian Penal Code.

2. Inspector S. Bavanandam Pillai of the Intelligence Department, Madras City, is directed to lay information before the Chief Presidency Magistrate, Madras, under section 108 of the Code of Criminal Procedure in respect of the said articles against the said G. Subramania Aiyar.

(True Extract.)

M. Hammick,
Chief Secretary.

To the Commissioner of Police.
Copy to the Crown Prosecutor.

XII

Telegram—from the Chief Secretary to the Government of Madras.
To—the Secretary to the Government of India, Home Department.
Dated—the 9th September 1908.
No.—868.

Reference [my] telegram informing [the] Government of India that Governor in Council has authorized the institution of proceedings under sections 124-A and 153-A of the Indian Penal Code against G. Subramania Aiyar, as editor, printer, publisher and proprietor of the Tamil newspaper [called] *Swadesamitran*. Governor in Council has now withdrawn proceedings under sections 124-A and 153-A of the Indian Penal Code, and has taken action under section 108 [of the] Code of Criminal Procedure in consideration health and age of Subramania Aiyar who has been bound over under that section.

35/1212

Proof submit for approval

STRICTLY CONFIDENTIAL.

~~JUDICIAL DEPARTMENT.~~

29.12.8.

NOTES CONNECTED WITH G.O., No. 1212, JUDICIAL, DATED 2ND SEPTEMBER 1908.

[SUBJECT.—~~Sanction to prosecute~~ Proceedings against the "*Swadesamitran*" under sections ~~124-A and 153-A~~ 108 of the ~~Indian Penal Code~~ Cr. P. Code.]

I.

From the Commissioner of Police, No. 563 (b) I.D., dated 24th June 1908.

To Under Secretary—

Submitted for orders.

H.T.—26-5-08.

To Chief Secretary—

The general tone of these extracts brings them within the law, but there is nothing very much in any of them taken by itself. Submitted that though a prosecution would probably be successful, it is not likely that Mr. Subramania Aiyar would get a long sentence. On the other hand, he would receive a tremendous advertisement and the circulation of his paper would probably increase greatly.

The Under Secretary's sympathies with Subramania Aiyar plainly blind him to facts. I trust as he grows older he will grow wiser.

G. S[TOKES]—28-7-08.

2. Submitted that a warning to be followed by security proceedings, if necessary, will meet the case.

A. GALLETTI—26-6-08.

To Honourable Member and circ.—

The *Swadesamitran* is the worst offender of all. I submit that prosecution is undoubtedly called for in this case.

J. N. ATKINSON—26-6-08.

I am very loath to advertise this man any more than he advertises himself. However I do not think a warning would do any good. The man is clever and his game is no doubt to go just as close as he can to the limit—and a warning won't stop him. He was careful the other day in his Tanjore speech to keep well within bounds, and possibly he may be a bit frightened by the prosecutions elsewhere. I almost think I would wait another month's issue of his paper and see if he is going to moderate his tone. If his next two or three issues contain anything which would bring him within the law I would prosecute. Probably Tilak's arrest in Bombay will excite him to say something violent.

On the other hand, a prosecution simultaneously launched against this paper and *India* may have the result of stopping this kind of writing down here and on that account it may be advisable.

On the whole I am inclined to wait a little longer.

M. H[AMMICK]—27-6-08.

I have long been of the opinion that the *Swadesamitran* had frequently overstepped the bounds, and I find 21 extracts stated by the Advocate-General to be within the law. I do not see the good of waiting any longer and I would prosecute the paper at once.

G. S[TOKES]—27-6-08.

I agree that we should institute proceedings.

The 11th May is the date of the last extract. Please have all the issues since that date carefully scrutinised to see if any more recent sedition-preaching has been carried on, and can be included in the proceedings.

A. L[AWLEY]—29-6-08.

Attend to His Excellency's note sharp.

J. N. ATKINSON—29-6-08.

36/1212

Draft Official Memoranda to the Commissioner of Police and to the Advocate-General are submitted.

H.T.—29-6-08.

C. A. SOUTER—30-6-08.

Issue to-day.

J.N.A.—30-6-08.

II + III

[Issued as Official Memorandum, No. 89-1, dated 30th June 1908.]

For orders whether a reminder should be sent.

H.T.—20-7-08.

Remind the Advocate-General.

C.A.S.—20-7-08.

I do not understand His Excellency's note to mean that proceedings should be stopped till this extra scrutiny is made. Please bring to Council to-morrow.

G. S[TOKES].

Order in Council.

Advocate-General to be telegraphed to for opinion if possible within 24 hours in this case and as to *India*.

G. S[TOKES].

J.N.A.—24-7-08.

[Telegram submitted in file regarding prosecution of *India*.]

IV

From the Advocate-General, dated 25th July 1908.

Submitted with

~~H.T.—27-7-08.~~

~~To Under Secretary~~—

References to the extracts in the Newspaper Reports have been quoted against each article as directed.

H.T.—27-7-08.

To Chief Secretary—

These papers have been submitted in a very unsatisfactory manner. No translations of the various passages have been given and the opinion of the Advocate-General seems to be superficial. In some places he has given no opinion at all. I, therefore, have had the weekly newspaper reports examind to see if the articles have been reported in them. References will be found against each section of the Advocate-General's opinion.

J.N.A.

It is to be remembered that the weekly reports are little more than paraphrases. The Advocate-General's opinion must therefore be taken largely on trust.

(1) *Article, dated 15th May, page 339 of Report.*—It may be agreed that no proceedings could be based on this article. The English are, however, called "beasts" or "wild animals" which shows racial animus.

(2) *Article, dated 16th May, page 339 of Report.*—There is nothing in this article. It is merely an argument against repressive measures and seems in no way seditious.

(3) *Article, dated 20th May, pages 341-1 of Report.*—This article accuses the English of draining the wealth of India, of killing and beating Indians, and of prejudicing the Government against Indians. The Advocate-General says that it will fall under section 124-A. It seems more to fall under section 153-A as it clearly incites class hatred.

Both sections.

J.N.A.

(3) *Article, dated 21st May*—Same reference. This article is a reply to the suggestion of

50 9 106

18/1212

Read.
Telegram from the Commr. of
Police dated 1st Sept 1908.

XI

46P

Order no. 1212 d/ 2.9.08
Misc

The following order will be
despatched to the Commr. of
Police who will give the required
instructions to the Crown
Prosecutor

H.E. order.

the *Englishman* that the agitators should be publicly flogged by sweepers. The suggestion is outrageous and warrants a reply. The Advocate-General apparently does not consider the article obnoxious. One sentence, however, occurs which is objectionable: "Perhaps they have "forgotten that once the heads of the Whites rolled like cocoanuts in Northern India." The Advocate-General is not inclined to lay stress on this, but it certainly sounds like an invitation to retaliate.

This is the sort of calumny which should be stopped, if possible.

J.N.A.

Exactly, with an ignorant populace it is the most telling argument he could put forward and the most untrue.

G. S[TOKES].

(5) *Article, dated 26th May—page* 349 *of Report.*—This article ascribes famine to the Government as a result of heavy taxation, extravagance and the destruction of local industries. The Advocate-General thinks it falls under section 124-A. It seems to do so.

(6) *Article, dated 3rd June—pages* 368–9 *of Report.*—This article ascribes events in Cocanada and Tinnevelly to the action of Government in upholding the deeds of bad Magistrates. It seems to fall under section 124-A, but the Advocate-General thinks it may be used only by way of evidence.

(7) *Article, dated 3rd June—page* 367 *of Report.*—A drunk soldier who killed a man was acquitted. The writer asks how Indians can be loyal when there is such injustice. The Advocate-General gives no opinion on this article which may perhaps be neglected.

(8) *Article, dated 5th June—page* 383 *of Report.*—This is a reply to a humorous suggestion in the *Madras Times* that King Edward went to Russia to sell India to the Czar. The article seems to welcome the idea, and the Advocate-General thinks it unjustifiable even as a retort against the *Times.*

(9) *Article, dated 30th May—pages* 381–2 *of Report.*—This article says that unlike President Roosevelt in America the British are anxious only to drain the wealth of India. The Advocate-General thinks the article seditious. It seems to be so.

This is it again.

G.S.

(10) *Article, dated 6th June—page* 371 *of Report.*—This article says justice is not given to Indians, and the Advocate-General thinks it falls under section 124-A. It seems so to fall, but by itself would not appear to warrant proceedings.

(11) *Article, dated 2nd June—page* 382 *of Report.*—This article is a reply to Sir Charles Elliot to whom it gives the lie direct. The only really objectionable passage is at the end in the reference to 30 crores of Indians, but the Advocate-General does not think any offence has been committed.

(12) *Article, dated 16th June—page* 395 *of Report.*—This seems a harmless article.

(13) *Article, dated 18th June—page* 396 *of same Report.*—This is merely a comparison of the values of the Executive and Judiciary. It is not seditious.

(14) *Article, dated 25th June—page* 420 *of Report.*—This article compares the treatment given to a peon who brushed against a lady with that given to Englishmen who ravish Indian women. The Advocate-General thinks it may be used as evidence.

Of the above articles the Advocate-General thinks that numbers (3), (5), (8), (9) and (10) will fall under section 124-A and that numbers (6) and (14) may be used as evidence. As pointed out above we have no exact translations of the articles and the reports give only a précis. The Advocate-General has written obviously in a hurry, and I submit that there is a certain amount of danger in taking him completely on trust.

C.A.S.—28-7-08.

To Hon'ble Mr. Hammick, C.S.I., and circ.—

The object in having these later issues of the *Swadesamitran* and *India* (linked file) scrutinized was to see whether there had been such an improvement in the tone of the two papers as to justify abstention from prosecution in respect of the earlier issues.

I submit that there is no such improvement. The language employed may be less violent, but the intention of stirring up disaffection and race hatred is as pronounced as ever. There is no need to sanction separate prosecution in the case of these later issues, which would only be used in proof of animus. I think that the prosecution in respect of the earlier issues—or better in respect of any three issues which counsel may select—should be sanctioned. The

G. S[TOKES].

G. S[TOKES].

Swadesamitran and *India* have been the worst of all the vernacular papers, and their wide circulation and (comparatively) influential ownership should not protect them.

I circulate the papers *special* that if possible they may reach His Excellency this evening.

J.N.A.—28-7-08.

I have expressed my view that we should not prosecute unless subsequent issues to those first submitted showed a continued intention to create disaffection and produce class hatred. I have read these subsequent issues and the Advocate-General's opinion. He has served us badly having taken 9 days to study these papers and done nothing, and then given us a miserable opinion. On the whole, I think, we may prosecute both the *India* and the *Swadesamitran* on the worst of these articles. I think there is no doubt they tend to produce disaffection and class hatred. And I think, although, I do not feel sure on this point, that a prosecution will do good. If we prosecute we shall have to watch very carefully the proceedings. I suppose the Advocate-General should prosecute. However that can be considered later. The Crown Prosecutor Mr. Grant will, I suppose, appear for Government in the Police Court.

M. H[AMMICK]—28-7-08.

I would certainly prosecute both papers without any further delay. I do not think the Advocate-General should prosecute. It is the ordinary duty of the Crown Prosecutor.

G. S[TOKES]—28-7-08.

I think that we should institute proceedings, against both these papers. We should, I think, prosecute in respect of the three most flagrant cases selected by counsel using the other articles as corroborative evidence of the animus of the writer.

The Crown Prosecutor should take up the cases *without delay*.

A. L[AWLEY]—28-7-08.

Draft. ~~See note in linked file.~~

J.N.A.—29-7-08.

To Chief Secretary—

Please see the draft order below. It is, I think, perfectly in accordance with law if the decision in I.L.R., Bom., XXII, page 112 is accepted (*vide* especially at pages 123 and 124). It will be best however to write demi-officially to the Crown Prosecuter in the following terms :—

~~*Demi-official*—from the Hon'ble Mr. J. N. ATKINSON,~~ Acting Chief Secretary to Government.
To—N. GRANT, Esq., Crown Prosecutor.
~~*Dated*~~—the 30th July 1908.

"The Government have authorised the prosecution of the editors of the *Swadesamitran* and "*India* newspapers under sections 124-A, 153-A and 505 of the Indian Penal Code in respect of "certain articles which have appeared in them for some months past. I enclose herein copies of "the respective orders which it is proposed to issue sanctioning the prosecution. They follow "the language of the order in the Tinnevelly case which was drafted in consultation with the "Advocate-General and the decision in I.L.R., Bom., XXII, 112 has been carefully considered "in drafting them. Please let me know at once whether in your opinion these orders are "good and sufficient, or whether they can be impugned as for instance on the grounds that "the periods of 6 and 5 months covered by the articles are too long. If you think the "orders sufficient, please wire to me at once, and the signed order of sanction will then be issued "to the Commissioner. I am directed to request you to be very careful in instituting "complaints. You should strictly follow the provisions of the Criminal Procedure Code "regarding the joinder of charges and should select, in consultation with the Commissioner "of Police, the three articles which you consider most violent in each newspaper and draft the "complaint or information in regard to them. You should report, for the information of Govern-"ment, without delay the articles which you select. Other articles may be produced in Court "in proof of the intention of the writer. It "is possible that the prosecution may fail, and "subject to your advice the Government consider that, in view of this possible contingency, it "would be well to complain or be prepared to complain in respect of a second or more sets of three "articles. There is the risk that if not more than one complaint be put in at first, Government "would be precluded from putting in others afterwards. I am to ask you for your advice on this "point and to say that if you concur in these views, [you will be at liberty to select more than one "set of three articles, if necessary, but it will suffice if you can obtain a conviction on one set.]

~~For orders [ ].~~

"Lastly, it is very necessary that you should keep these orders strictly confidential until "warrants have issued and until the Police have been enabled to make a search of the accused's "premises if they so desire. A copy of this demi-official is being sent to the Commissioner of "Police."

India will be informed when a complaint has been filed.

C.A.S.—29-7-08.

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

The draft order of sanction is put up for approval. It follows the order in the Tinnevelly cases which was drafted in consultation with the Advocate-General.

In the Tinnevelly case sanction was given in respect of speeches extending over *two* months: in the present case the sanction applies to newspaper articles that have appeared during a period of six months. It is just possible that objection may be raised to the length of time: but in Tilak's case (I.L.R., Bom., XXII—112, 599) the sanction was much vaguer, no limit of time being stated. Further, it must be remembered that the complaint or information will set out the exact articles in respect of which charge is laid, so that the accused cannot be prejudiced.

If, however, there is any doubt we might perhaps send a copy of the proposed order of sanction to Mr. Nugent Grant (Crown Prosecutor) and ask him to say whether it is all right. This need cause no delay, for Mr. Grant will have to go through all the articles, and select those in respect of which prosecution is to be made.

Yes, I would do this; it will cause no delay.

M.H.

The portion in brackets in Mr. Souter's draft demi-official should, I think, be omitted. It means that Mr. Grant is at liberty to make more than one complaint, and that I think is not the intention. The demi-official otherwise may be approved.

The sentence should be omitted, I think.

M.H.—29-7-08.

The complaints cannot be preferred by the Crown Prosecutor, as Mr. Souter has drafted in the order of sanction; I have inserted Inspector S. Bavanandam Pillai, as desired by Mr. Wilkieson in his letter, dated 24th June.

The draft order in the *India* case is in the linked file.

J.N.A.—9-7-08.

I think the order is correct.

M.H.

I think the sanction is quite correct and I do not think anything more need be said about it to Mr. Grant except that he may raise a question on it if he thinks it necessary. Of course a copy of the sanction must be sent him and the sanction must be filed with the complaint.

I do not understand His Excellency's note to mean that we are not to proceed on more than three cases. There are over twenty of those articles and more than ten of them are highly objectionable. I think therefore that the Crown Prosecutor should be given liberty to proceed on more than three articles, *i.e.*, that he should be at liberty to split up the proceedings into more than one case. It may seriously prejudice the result unless he has such liberty. I would ~~have~~ in the sentence in brackets in Mr. Souter's demi-official. At any rate Mr. Grant's opinion and that of the Commissioner should be got. If we do not put in more than one complaint in the beginning we cannot put in others afterwards, but if a conviction is got on our complaint we can withdraw the others. We should have more than one string to ~~one~~ bow.

G.S.—29-7-08.

~~Draft demi-official to the Commissioner of Police is submitted~~:—

Demi-official—from the Hon'ble Mr. J. N. ATKINSON, I.C.S., Acting Chief Secretary to Government.

To—H. F. WILKIESON, Esq., Commissioner of Police.

Dated—30th June 1908.

I am directed to enclose a copy of a demi-official and of its enclosures to Nugent Grant, and to ask you to consult with him on the matter.

~~H.T.—30-7-08.~~

The demi-officials to Mr. Grant and the Commissioner of Police have issued, the file is resubmitted to Chief Secretary as directed.

H.T.—30-7-08.

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

There was some difference of opinion between the Honourable Members as to the terms of the proposed demi-official to the Acting Crown Prosecutor. To avoid the delay in recirculating the papers I amended the draft demi-official so as, if possible, to embody both Honourable Member's views. A copy of the amended demi-official, which has issued to-day, is on ~~the two previous pages~~. pages 4 & 5

J.N.A.—30-7-08.

I agree with the views in the demi-official. The matter is one of law and we must be guided by the advice of the Crown Prosecutor.

M.H.—1-8-08.

I fully approve the demi-official.

G.S.—2-8-08.

To Under Secretary—

The file has been marked for circulation by Chief Secretary.

It is, however, respectfully submitted for orders whether a copy of the Advocate-General's opinion which was submitted to Government direct, and the issues of the newspapers examined by the Advocate-General should not be sent to the Crown Prosecutor. Without these he will have nothing to go by, and there may be delay if he is to obtain copies of the papers.

If this is considered unnecessary the file will be sent in circulation.

H.T.—30-7-08.

To Chief Secretary—

The opinion should, I submit, go to the Crown Prosecutor. It would, in the ordinary course, go with the formal order.

C.A.S.—31-7-08.

Of course. I only wanted Honourable Members to see the demi-official as amended.

J.N.A.—31-7-08.

Draft demi-official to the Crown Prosecutor is submitted :—

Demi-official—from C. A. SOUTER, Esq., I.C.S., Under Secretary to Government.
To—N. GRANT, Esq., Crown Prosecutor.
Dated—31st July 1908.

With reference to Mr. Atkinson's demi-official of yesterday, I am directed to enclose a copy of the Advocate-General's opinion, dated the 25th July, and the newspapers examined by him in consultation with Mr. Wilkieson. The papers should be returned without delay with your reply.

[For orders.]

Issue my signature.

C.A.S.—31-7-08.

[Issued as demi-official, dated 31st July 1908.]

Demi-official—from N. GRANT, Esq., Crown Prosecutor.
To—the Hon'ble Mr. J. N. ATKINSON, I.C.S., Acting Chief Secretary to Government.
Dated—1st August 1908.

I am in receipt of your demi-official of the 30th ultimo together with the copies of the orders which Government proposes to issue sanctioning the proceedings in the two cases referred to therein.

In view of the period of time over which the articles extend, and the expediency of preferring more than one complaint in each case, I consider it would be safer if the several articles in respect of which complaints should be lodged were specified in the orders sanctioning the prosecution.

This will, in my opinion, obviate the possibility of the orders being impugned.

I shall carefully peruse the file of articles in the two cases, and select such of them as I together with the Commissioner of Police consider most violent.

I shall report to Government what articles have been selected and supply the details necessary for the several orders.

I think it advisable that two or more complaints should be preferred in each case, each complaint having for its subject-matter a set of three articles, so that in the event of any one complaint failing we might proceed with the other or others.

If Government agrees with my views I will require an order in respect of each complaint specifying the articles complained of.

To Under Secretary.

J.N.A.—4-8-08.

Telegram—from the Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—4th August 1908.

Your demi-official, 30th ultimo. Please return enclosures to my letters No. 563 (*a*) I.D. and 563 (*b*) I.D., dated 24th May 1908, for reference.

Soon.

J.N.A.—4-8-08.

The enclosures referred to by the Commissioner of Police are those connected with his letters in the two linked files. The following demi-official is for approval in case they are to be returned :—

41/1212

Demi-official—from C. A. SOUTER, Esq., Under Secretary to Government.
To—H. F. WILKIESON, Esq., Commissioner of Police.
Dated—4th August 1908.

With reference to your telegram of date, I am directed to return, for reference, the enclosures to your letters No. 563 (*a*) I.D. and 563 (*b*) I.D., dated the 24th June *.

* The telegram states 24th May.

~~To Chief Secretary~~—

C.A.S.—4-8-08.

Issue. We don't want these enclosures now.

J.N.A.—4-8-08.

[Issued as demi-official, dated 4th August 1908.]

After His Excellency's return circulate to His Excellency the Governor.

J.N.A.—3-8-08.

To Chief Secretary—

On page 6 will be found Mr. Nugent Grant's reply to the demi-official of the 30th July. It is unsatisfactory in that it really gives no legal opinion on the points raised. No discussion is given of the terms of the proposed sanction to prosecute. I propose the following demi-official in reply.

Demi-official—from the Hon'be Mr. ATKINSON, I.C.S., Acting Chief Secretary to Government.
To—N. GRANT, Esq., Crown ~~Solicitor~~ Prosecutor.
Dated—4th August 1908.

I am in receipt of your demi-official of the 1st August which is a reply to my letter of the 30th July regarding the prosecution of the *Swadesamitran* and *India.* I am to say that Government are not satisfied with your discussion of the legality of the order which they propose to issue. As pointed out in my previous demi-official this order was drafted after a careful consideration of the similar order in Queen-Empress *v.* Bal Gangadhar Tilak, I.L.R., 22 Bom., 112, and also of that passed in the recent case against Chidambaram Pillai while that in Empress *v.* Apurba Krishna Bose, I.L.R., XXXV Cal., 141, was also kept in view. The order in Chidambaram Pillai's case was drafted in immediate consultation with the Advocate-General. You do not, however, in your letter under reply offer any opinion on these cases, though according to the view which you appear to hold, the sanction in all of those cases must have been insufficient and illegal. There seems no reason to anticipate that a sanction in terms more detailed and particular than one (that in Tilak's case) already upheld by two different High Courts will be **A** | deemed insufficient by the Madras High Court. Details have however now been inserted in the orders of sanction of every article covered by them. The course which you propose, viz., to have a seperate order of sanction on each complaint seems clearly unnecessary, and would result in a waste of time. The Government agree with you that it would be advisable to have more than one complaint, but after you receive the order to prosecute you should use your discretion as to the number of complaints to be filed bearing in mind that conviction in one case is all that Government desire. You should now, in consultation with the Commissioner of Police and without delay, institute proceedings before the Chief Presidency Magistrate.

~~Please type the draft.~~

~~J.N.A.—4-8-~~08.

~~Typed and submitted.~~

~~H.T.—4-8-08.~~

~~*To Chief Secretary*—~~

~~C.A.S.—4-8-08.~~

To Hon'ble Mr. Hammick, C.S.I.—

To Hon'ble Mr. Stokes, C.S.I.—

Mr. Nugent Grant in his letter at ~~page 25~~ above raises what must surely be untenable objections to the sanction that Government proposed to issue in the *Swadesamitran* and *India* cases.

He wants Government to specify the particular articles in respect of which sanction is given —a course which would not only be inconvenient, and might cause failure of the prosecution, but which has been specially declared unnecessary in the "Tilak" and "Bose" cases.

And then he wants a separate order of sanction for each complaint. This also seems quite unnecessary.

I submit that the original order of sanction may at once be issued as drafted, and Mr. Grant told to get his charges filed sharp.

A draft reply to Mr. Grant is ~~on pages~~ ~~and~~ above.

J.N.A.—4-8-08.

Yes. I agree. Mr. Grant does not promise very well, I fear.

M.H.—5-8-08.

It is not unlikely that the sanction is sufficient and will be held so by the Madras High Court, but it would certainly be ~~so far~~ to put in the margin the date and heading of all the extracts on which we are proceeding. I do not know whether we have the papers here put, if not the information might be got by telegraph from the Commissioner of Police. No separate sanction is required for each complaint.

G.S.—5-8-08.

I am afraid the papers have gone back to Madras. If so wire for the particulars mentioned by the Honourable Member.

J.N.A.—5-8-08.

The following telegram to the Commissioner of Police is submitted. It is for orders whether the reply of the Commissioner should be by letter or telegram.

They had better come by letter perhaps. It seems unsafe for various reasons to telegraph the names of the articles.

C.A.S.—6-8-08.

Telegram to the Commissioner of Police, Madras.

~~752~~. Please forward by letter to-day dates and headings as given in the newspapers themselves of all the extracts forwarded with your letters 563 (*a*) I.D. and 563 (*b*) I.D., dated 24th June 1908.

May issue.

C.A.S.—6-8-08.

2. The recent issues of the papers examined by the Advocate-General are enumerated in his opinion on pages ~~67 et seq.~~

3. It is moreover respectfully submitted that the extracts forwarded by the Commissioner of Police in his two letters mentioned in the telegram were cuttings from the reports on vernacular newspapers, and though the heading which appears against each extract in the newspaper report gives the purport of the article, it does not represent the name of the article as it appeared in the newspaper. Please see the names of the articles mentioned in the Advocate-General's opinion on page 67 *et seq.*, and the references to these articles in the Vernacular Newspaper reports put up.

H.T.—5-8-08.

To the Chief Secretary—

C.A.S.—6-8-08.

I think the telegram above is clear, and the Commissioner should be able to let us have the information by to-morrow afternoon. Issue the telegram *urgent* at once and let me have the file for Council to-morrow.

J.N.A.—6-8-08.

[Issued as telegram No. 752, dated 6th August 1908.]

To Under Secretary—

The file is submitted for orders as it has been decided not to hold a Council to-morrow.

H.T.—6-8-08.

To Chief Secretary—

C.A.S.—6-8-08.

Await the Commissioner's reply.

J.N.A.—6-8-08.

~~[From the Commissioner of Police No. 563 I.D., dated 6th August 1908.]~~

~~Issue the following telegram to the Commissioner of Police :—~~

~~755. Your No. 563. Get the headings and dates from Tamil Translator going in~~ person ~~and send them by to-morrow's mail.~~

~~C.A.S.—7-8-08.~~

To Hon'ble Mr. Hammick, C.S.I. and circ.—

I invite attention to the Hon'ble Mr. Stokes' note ~~on page~~ 31. At last the particulars wanted have been received from the Commissioner of Police. It is for orders whether sanction may now issue with dates and headings of the articles inserted. I think they should be inserted in the body of the sanction if anywhere. Every incriminated article is included in Mr. Wilkieson's lists apparently.

Note.—The Hon'ble Mr. Hammick declined to note, as he had ceased to be Honourable Member by the time the file reached him.

J.N.A.—10-8-08.

~~Vide letter placed below.~~

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B | One sanction for each paper is to issue, I presume, not one for each charge.

J.N.A.—10-8-08.

It does not matter where the title and date of the articles are inserted, provided it is plain that they are a part of the sanction both limiting it and conveying to the accused person what Government is going on.

I do not quite understand. I take it to mean that there is to be one Proceedings of Government sanctioning the prosecution of the *Swadesamitran* in respect of the articles named which appeared in it, and another and separate Proceedings in regard to the *India*. If so I think this is right.

G.S.—10-8-08.

Please put up draft sanctions, inserting articles in the body of the order.

To Chief Secretary— J.N.A.—10-8-08.

Please see the draft below.

To His Excellency the Governor— C.A.S.—10-8-08.

These are the papers regarding the prosecution of the *Swadesamitran* and *India*. After Your Excellency's note, dated 28th July (on page 13), a draft demi-official to the Crown Prosecutor was prepared; but in consequence of some difference of opinion between the Honourable Members it had to be amended, and did not issue till 30th July. The Crown Prosecutor replied on 1st August, and wanted quite a different kind of sanction from what Government proposed. His letter was discussed by the Honourable Members, and the Hon'ble Mr. Stokes wanted further particulars to be entered in the orders of sanction. These particulars have just been obtained, and a draft order of sanction is now put up in accordance with the Hon'ble Mr. Stokes' and final note ~~on page 35 of the note file~~.

There is a draft reply to the Crown Prosecutor on pages ~~28, 29 of the current file~~. This has not yet issued; but may now do so with the slight addition I have inserted at A and the omission of the words at B.

J.N.A.—10-8-08.

Form of sanction and draft reply to the Crown Prosecutor approved.

A. L[AWLEY]—10-8-08.

Issue.

J.N.A.—10-8-08.

V

[Issued as G.O., No. 1102, dated 11th August 1908.]

The Government orders have issued. Draft telegram to the Government of India informing them of the sanctions is submitted for approval.

H.T.—11-8-08.

To Chief Secretary—

The telegram may issue *after* the arrest of the two accused. A letter will also be sent to India referring to the Secret Abstract report of each article in respect of which action has been taken.

C.A.S.—12-8-08.

Yes. Wait for arrest, then send telegram and draft letter please.

M.H.—12-8-08.

Telegram—from the Chief Secretary to Government.
To—the Inspector-General of Police.
Dated—21st August 1908.
No.—798.

Why has no action yet been taken on G.O., No. 1102, dated 11th instant?

To Under Secretary—

The newspapers received yesterday evening announce that G. Subramania Aiyar and M. Srinivasa Aiyangar have been arrested. Submitted that the telegram to the Government of India ~~placed below~~ may now issue.

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2. A draft letter to the Government of India is also submitted.

H.T.—23-8-08.

Issue telegram.

C.A.S.—23-8-08.

VI

[Issued as telegram No. 808, dated 24th August 1908.]

To Chief Secretary—

Draft letter for approval.

C.A.S.—23-8-08.

Issue.

M.H.—24-8-08.

VII

[Issued as letter No. 115, dated 25th August 1908.]

Demi-official—from F. ARMITAGE, Esq., Assistant Inspector-General of Police.
To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
Dated—22nd August 1908.

With reference to the Government's telegram No. 798 of yesterday asking why no action had been taken on G.O., No. 1102, dated the 11th instant, ordering the prosecution of two Madras newspaper editors, you will doubtless have seen that action was taken yesterday. I have asked the Commissioner of Police the reason for the delay. He says that he got the Government Order on the 13th, and that it was sent to the Crown Prosecutor on the 14th and that some consultation took place and the complaints were drafted on the 17th (3 days' delay). They were filed in Court on the 18th (4 days) as the Police officer to do so was engaged in Sessions on the 17th, and warrants were issued on the same date.

The Commissioner thought it advisable to secure G. Subramania Aiyar, who was at Tenkasi, before taking action in Madras and so sent men to arrest him, and on hearing from them yesterday by wire that he had been taken into custody, he executed the remaining arrest warrant and the search warrants.

I am writing this as the Inspector-General is in camp and am sending him the telegram and copy of this letter.

~~Record~~.

M.H.—24-8-08.

Demi-official—from the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.
To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
Dated—28th August 1908.

I received your letter of the 26th and the copy of the Government Order of the 26th at 11 A.M. to-day and saw Mr. G. Subramania Aiyar during the afternoon recess. I let him read the Government Order and explained to him that undertaking No. 1 would bind him for all future time and that in accordance with the second undertaking he would be expected not to oppose the passing of an order against him under section 108, Criminal Procedure Code. He said that while he had no idea of disclaiming responsibility for the articles, he would not like to admit that the writings were seditious or likely to promote class hatred. I told him that while it would not be necessary for him to admit the objectionable character of the writings, he would be bound to abstain from any attempt to defend his conduct or justify the articles. I may point out here that notwithstanding his consent or undertakeing it would be necessary for the Government to let in formal evidence before the Presidency Magistrate of his connection with the paper and file all the objectionable articles. The order of the Magistrate must be based on evidence and not on the consent of the accused. He has fully understood the situation and has expressed his willingness in writing to abide by the conditions offered. I would suggest that the proceedings under section 108 might be initiated at once and expedited and that he might be released on the execution of the security bond. This need not take any time and he is not therefore likely to be prejudiced by the course suggested.

4S
1212

To Honourable Member and circ.—

I submit the Advocate-General's letter in reply to mine. He has seen Mr. G. Subramania Aiyar, who while saying that he had no idea of disclaiming responsibility for the articles, says he would not like to admit that they were seditious or likely to promote class hatred.

The Advocate-General told him that it would *not* be necessary for him to admit the objectionable character of the writings, but that he would be bound to abstain from any attempt to defend his conduct or justify the articles.

The Advocate-General points out that in any case it would be necessary for the Government to let in formal evidence before the Presidency Magistrate of his connection with the paper and file all the objectionable articles, as the order of the Magistrate must be based on evidence before him and not only on the consent of the accused.

Mr. G. Subramania Aiyar expressed his willingness in writing to abide by the conditions offered.

The Advocate-General suggests immediate action and the release of Mr. G. Subramania Aiyar as soon as he has executed the security bond.

Under the last sub-section of section 108, Criminal Procedure Code, the authority of the local Government is necessary before action can be taken under section 108, Criminal Procedure Code.

I submit, therefore, that the proper course now is to draft a formal Government order reading the Government order of the 26th August 1908 and the Advocate-General's letter in reply and formally authorising the Commissioner of Police, Madras, to take action at once to lay information before the ~~First~~ Presidency Magistrate and ask him to require Mr. G. Subramania Aiyar to show cause why he should not be bound over. Chief

The Commissioner will then instruct the Crown Prosecutor accordingly.

I can also write to Mr. Wilkieson and explain the matter and ask him to lose no time in instructing Mr. Grant in the matter.

The amount of security is, I suppose, a matter for the Magistrate, but he may ask the Crown Prosecutor what sum he would suggest. I imagine something like Rs. 5,000 would be sufficient, with perhaps one surety, or perhaps it will be sufficient to do without any sureties. It is on Mr. G. Subramania's good faith that Government must depend.

Mr. Wilkieson can be asked to wire as soon as the bond has been executed, when Government can at once wire to Mr. Grant to withdraw the complaint and ask the Magistrate to direct the release of the accused, or perhaps better the Government order can direct the Crown Prosecutor to take this action at once on the bond being signed.

I understood from the Hon'ble Mr. Stokes that if Mr. G. Subramania Aiyar consented to the terms action might be taken at once—so that it is perhaps unnecessary to wait for his return before taking action.

M.H.—30-8-08.

This is so far satisfactory.

I suppose a Government order must issue giving instructions to the Commissioner of Police (a letter would have been better, but it is not usual here. In the Government order however it seems unnecessary to set out the Government order of the 26th or the Advocate-General's letter. I would simply read them by number and date only without any indication of contents. The Government order would then direct the Commissioner of Police to instruct the Crown Prosecutor to proceed under the Criminal Procedure Code, and if G. Subramania Aiyar after formal evidence of the publication of the articles and their seditious, etc., character was prepared to be bound over and gave the securities required by the Magistrate then he was to *withdraw* the prosecution under the Penal Code.

> I agree.
>
> A. L[AWLEY].

If thought necessary a copy of the former Government order and of the Advocate-General's letter may be sent *confidentially* demi-officially to the Commissioner of Police for communication confidentially to the Crown Prosecutor so that he may understand the situation, but I think the formal Government order had better contain in substance more than what I have indicated—suitably drafted of course.

> I think that this should be done.
>
> A. L[AWLEY].

There are points of detail to be further considered—

(1) the amount of the sureties—himself in Rs. 5,000 and *two* sureties in Rs. 2,500 each would not be more (rather less) than the case requires and the Crown Prosecutor may propose this;

> I think that this would be sufficient. But as Mr. Hammick says he must rely on the man's good faith.
>
> A. L[AWLEY].

(2) as to the articles to be exhibited against G. Subramania Aiyar in the proceedings under the Criminal Procedure Code, I do not

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think I should file all the articles upon which it was proposed to prosecute under the Indian Penal Code. Several of them appear very weak and it would be quite enough to select 3 or 4, or 4 or 5, of those that are most incontrovertibly seditious, etc.;

Very well.

A. L[AWLEY].

(3) the private undertaking has already, as I understand from the Advocate-General's letter, been given and that need not be given in Court over again, it is a private undertaking to the Government;

(4) the Crown Prosecutor should state in Court at the end of the proceedings, if they are successful, that Government have been moved to take the course they have adopted in consideration of G. Subramania Aiyar's state of health as well as of his age and of the fact that he has given Government a private undertaking to abstain from the future from public speaking or writing, etc. (as in Government order of 26th August).

I think that this is very necessary.

A. L[AWLEY].

These points may be put in a demi-official as I have suggested above.

G.S.F.—30-8-08.

I agree that action should be taken on the lines indicated by the Hon'ble Mr. Forbes. I think that we should inform the Advocate-General of our action.

A. L[AWLEY]—30-8-08.

Demi-official—from the Hon'ble Mr. M. HAMMICK, C.I.E., O.S.I., I.C.S., Chief Secretary to Government.
To—the Hon'ble Mr. P. S. SIVASWAMY AIYAR, C.I.E., Advocate-General.
Dated—Ootacamund, 31st August 1908.

I am to-day sending the Commissioner of Police an order to instruct the Crown Prosecutor to take action as proposed under section 108, Criminal Procedure Code, against Mr. G. Subramania Aiyar in accordance with the course suggested in your letter, dated 28th August 1908.

Demi-official—from the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
To—H. F. WILKIESON, Esq., Commissioner of Police.
Dated—31st August 1908.

I enclose you a Government order of to-day's date attached to this letter also copy of a Government order of the 26th of August and the letter from the Advocate-General, dated 28th of August. These will explain the matter to you. Will you kindly instruct the Crown Prosecutor to carry out the orders in the Government order as soon as possible. You may, of course, in confidence show the Crown Prosecutor the Government order and letter from the Advocate-General. As some of the articles in the cases against G. Subramania Aiyar are not as strong as others, it will be enough as stated in the Government order, to select three or four or four or five of those that are most incontrovertibly seditious or calculated to produce race hatred. The private undertaking has already been given and that need not be given in Court over again. Please be very particular in asking the Crown Prosecutor to state in Court at the end of the proceedings if they are successful that Government have been moved to take the course they have adopted in consideration of G. Subramania Aiyar's state of health as well as his age and the fact that he has given Government a private undertaking to abstain in future from any public speaking or writing or any actions which may tend to excite class hatred or promote sedition or disloyalty to the Government.

To the Hon'ble Mr. Stokes, C.S.I.—

I submit, for Honourable Member's information, all the papers concerned with Mr G. Subramania Aiyar.

The order went out by yesterday's post—and to-day or to-morrow the proceedings should come on before the Presidency Magistrate.

There may be a little delay as the Crown Prosecutor has been told to select the articles to be laid before the Presidency Magistrate.

If the Honourable Member will return the papers they will be kept and eventually printed up as confidential proceedings.

M.H.—1-9-08.

I saw the Advocate-General in Madras in regard to this matter. I learnt from him and Govindaraghavier that G. Subramania never had any intention or desire to be a martyr, and that he would have shut up if warned!! He seems even a greater skunk than I gave him credit for. However as things have turned out I approve of all the action taken.

G.S.—1-9-08.

To Chief Secretary—

Under Chief Secretary's instructions I submit below an order authorizing the institution of proceedings under section 108, Criminal Procedure Code, against Subramania Aiyar. It seems unnecessary to specify any articles in it as the evidence required under the section is general.

C.A.S.—2-9-08.

The draft will, I think, meet the case. Fair it and I will sign it and let it go by to-morrow morning's post to the Commissioner of Police with a proceedings.
Read the telegram—the following order will be sent to the Commissioner, etc.

M.H.—2-9-08.

XI

[G.O., No. 1212, Judicial, dated 2nd September 1908.]

Demi-official—from the Hon'ble Mr. P. S. SIVASWAMI AIYAR, C.I.E., Advocate-General.
To—the Hon'ble Mr. M. HAMMICK, C.I.E., C.S.I., I.C.S., Chief Secretary to Government.
Dated—the 7th September 1908.

I send you herewith the copy of the Government order sent to me *in re* G. Subramania Aiyar's prosecution with the acceptance in writing, by Subramania Aiyar, of the terms offered by the Government. As the bond given by him before the Presidency Magistrate relates only to the second condition imposed by the Government, and as I understand that no separate undertaking has been taken from him in regard to the first condition, the paper now sent by me may be filed either in the Government office or in the Police Commissioner's office.
His acceptance of the terms is sufficient and no separate formal undertaking is necessary.

Put with the confidential file.

M.H.

Please send urgent telegram to Mr. Wilkieson, Commissioner of Police, Madras:—

~~837~~. Formal sanction should have reached you this morning. Lose no time in getting the Crown Prosecutor to take action 108, Code of Criminal Procedure.

M.H.

~~Very emergent.~~

[Issued as telegram no 6375 C.~~A.S.—4-9-08.~~ 4-9-07

Telegram—from the Commissioner of Police, Madras.
To—the Chief Secretary to Government.
Dated—the 5th September 1908.

Complaint lodged yesterday. Case will be heard to-day.

~~Repeat to Chief Secretary by telephone.~~

C.M.S.
~~C.A.S.—5-9-08.~~

[~~*Action against G. Subramania Aiyar under section*~~ 108, ~~*Code of Criminal Procedure.*~~]

To Under Secretary—

For orders whether a report should go to the Government of India on this matter.

H.T.—7-9-08.

Yes: draft please.

C.A.S.—8-9-08.

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To Under Secretary—

The previous papers on the subject are not in the office. A draft telegram to the Government of India is submitted.

H.T.—8-9-08.

To Chief Secretary—

C.A.S.—8-9-08.

Issue.

M.H.—8-9-08.

[Issued as telegram No. 868, dated 9th September 1908.] XII

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